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Friday
July 5, 1991

Briefing on How To Use the Federal Register
For information on a briefing in New Orleans, LA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW ORLEANS, LA

WHEN: July 23, at 9:00 am

WHERE: Federal Building, 501 Magazine St., Conference Room 1120, New Orleans, LA

RESERVATIONS: Federal Information Center 1-800-366-2998

Contents

Federal Register
Vol. 56, No. 129
Friday, July 5, 1991

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Agency information collection activities under OMB review, 30751

Agriculture Department
See also Animal and Plant Health Inspection Service; Forest Service; Soil Conservation Service
NOTICES
Agency information collection activities under OMB review, 30730

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Genetically engineered organisms; field test permits—
Corn, etc., 30731
Genetically engineered organisms for release into environment; permit applications, 30730, 30731
(2 documents)

Antitrust Division
NOTICES
National cooperative research notifications:
Industrial Macromolecular Crystallography Association, 30771
Michigan Materials and Processing Institute, 30771
Petroleum Environmental Research Forum, 30772

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Commerce Department
See also Export Administration Bureau; Minority Business Development Agency; National Oceanic and Atmospheric Administration; Patent and Trademark Office
NOTICES
Agency information collection activities under OMB review, 30734
(2 documents)

Commission of Fine Arts
NOTICES
Meetings, 30738

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Board of Trade—
Corn, soybean, wheat, soybean oil, and soybean meal, 30738

Council on Environmental Quality
NOTICES
President's Commission on Environmental Quality; meeting, 30739

Defense Department
NOTICES
Agency information collection activities under OMB review, 30740, 30741
(4 documents)
Meetings:
Defense Environmental Response Task Force, 30739
Senior Executive Service:
Performance Review Board; membership, 30739

Education Department
NOTICES
Agency information collection activities under OMB review, 30741
Grants and cooperative agreements; availability, etc.:
National Institute on Disability and Rehabilitative Research—
Americans with Disabilities Act; implementation, 30845
Disabled individuals, technology-related assistance; training and public awareness projects, 30844

Employment and Training Administration
NOTICES
Adjustment assistance:
Federal Mogul Corp., 30772
Jonbil, Inc.; correction, 30772
Walbro Corp., 30772

Energy Department
See also Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Advanced fleet reactor prototype, Saratoga County, NY, 30741
Meetings:
Secretary of Energy Advisory Board, 30743

Environmental Protection Agency
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 30746
Weekly receipts, 30746
Meetings:
Northeast Ozone Transport Commission, 30747

Environmental Quality Council
See Council on Environmental Quality

Executive Office of the President
See Council on Environmental Quality; Presidential Documents

Export Administration Bureau
NOTICES
Commodities and technologies controlled for national security purposes; core list, 30798

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 30680, 30682
(2 documents)

British Aerospace, 30683
IFR altitudes, 30686
Restricted areas, 30685
Transition areas, 30684
NOTICES
Advisory circulars; availability, etc.:
Electrical fault and fire prevention and protection, 30788

Federal Communications Commission
RULES
Radio services, special:
Private operational-fixed microwave service—
Multiple address system operations; grandfathering provisions, 30698
PROPOSED RULES
Television broadcasting:
Cable television systems—
Technical and operational requirements, 30726

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 30794

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 30794

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Double crediting order and crediting regulations, 30692
NOTICES
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 30744
Cranberry Pipeline Corp., 30744
El Paso Natural Gas Co., 30744
KN Energy, Inc., 30744, 30745
(2 documents)
Midcoast Ventures I, 30745
MIGC, Inc., 30745
Mississippi Valley Gas Co., 30745
Sabine Pipe Line Co., 30746

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Shagit County, WA, 30788

Federal Maritime Commission
NOTICES
Agreements filed, etc., 30747

Fine Arts Commission
See Commission of Fine Arts

Fish and Wildlife Service
NOTICES
Endangered and threatened species:
Recovery plans—
Cui-ui, 30763
Environmental statements; availability, etc.:
Las Vegas Valley, NV; Mojave desert tortoise, incidental taking, 30764
Marine mammal permit applications, 30764

Forest Service
NOTICES
Appeal exemptions; timber sales:
Black Hills National Forest, SD, 30732
Environmental statements; availability, etc.:
Tongass National Forest, AK, 30733
Forest Legacy Program; guidelines availability, 30733

General Services Administration
NOTICES
Agency information collection activities under OMB review, 30748
(4 documents)
Federal telecommunications standards:
Government maritime mobile communications; single channel, medium and high frequency radiotelegraph systems; coding, modulation, and transmission requirements, 30750
Telecommunications—
Glossary of terms, 30748

Health and Human Services Department
See also Aging Administration; Health Care Financing Administration
NOTICES
Organization, functions, and authority delegations:
Consumer Affairs Office, 30750

Health Care Financing Administration
RULES
Medicaid:
Intermediate care facilities for mentally retarded; deficiency correction and reduction plans for continued participation, 30696
PROPOSED RULES
Medicare:
Health maintenance organizations (HMOs); membership requirements and reasonable employer contributions, 30723
NOTICES
Medicare:
Program issuances; quarterly listing, 30752

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 30757

Immigration and Naturalization Service
RULES
Nationality:
Naturalization certificates; name change procedures and electronic recordkeeping, 30679
PROPOSED RULES
Immigration:
Employment-based immigrants; petitions, 30703

Indian Affairs Bureau
NOTICES
Liquor and tobacco sale or distribution ordinance:
Mashantucket Pequot Tribe, 30848

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
PROPOSED RULES
Income taxes:
Life insurance contract determinations; reasonable mortality charges, 30718
Hearing, 30721

International Trade Commission
NOTICES
Import investigations:
Steel wire rope from—
Canada, 30765

Interstate Commerce Commission
NOTICES
Meetings; Sunshine Act, 30794
Railroad operation, acquisition, construction, etc.:
ATW Ry, L.P., 30766
ET Ry, L.P., 30766
Galveston Railroad, L.P., 30766
Green Bay Packaging, Inc., et al., 30767
LRW Ry, L.P., 30767

Justice Department
See also Antitrust Division; Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
Attorney Personnel Management Office, Director, 30693
NOTICES
Pollution control; consent judgments:
Champion International Corp., 30768
Chemical Leaman Tank Lines, Inc., 30768
Hercules Inc. et al., 30768
Lewisburg, TN, et al., 30769
Minnesota Mining & Manufacturing Co., 30769
Simpson Tacoma Kraft Co. et al., 30770
Sinclair Oil Co., 30771

Labor Department
See Employment and Training Administration; Mine Safety and Health Administration

Land Management Bureau
NOTICES
Closure of public lands:
Nevada, 30757
Coal leases, exploration licenses, etc.:
New Mexico, 30758
Management framework plans, etc.:
Montana, 30760
Meetings:
Bakersfield District Advisory Council, 30760
Oil and gas leases:
New Mexico, 30760
Opening of public lands:
Idaho, 30760
Realty actions; sales, leases, etc.:
California; correction, 30761
Idaho; correction, 30761
Survey plat filings:
New Mexico, 30762
Withdrawal and reservation of lands:
Colorado, 30762

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
Kerr-McGee Coal Corp. et al., 30773

Minerals Management Service
NOTICES
Royalty management:
Assessment rates; incorrect or late reports and failure to report, 30764

Minority Business Development Agency
NOTICES
Business development center program applications:
Texas, 30735

National Aeronautics and Space Administration
NOTICES
Meetings:
Space Science and Applications Advisory Committee, 30773, 30774
(2 documents)

National Archives and Records Administration
NOTICES
Nixon Presidential historical materials; opening of materials, 30774

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Dance Advisory Panel, 30775
(2 documents)

National Highway Traffic Safety Administration
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
Wakefield, Bruce D., et al., 30788

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 30699
NOTICES
Fishery conservation and management:
Atlantic mackerel, squid, and butterfish; correction, 30736
Meetings:
Gulf of Mexico Fishery Management Council, 30737
North Pacific Fishery Management Council, 30737
Permits:
Marine mammals, 30736
(3 documents)

National Park Service
RULES
Special regulations:
Ozark National Scenic Riverways; motorized vessels restrictions, 30694

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Sacramento Municipal Utility District, 30775
Petitions; Director's decision:
Public Service Co. of—
New Hampshire, 30777
Regulatory guides; issuance, availability, and withdrawal, 30776, 30777
(3 documents)
Applications, hearings, determinations, etc.:
Carolina Power & Light Co., 30777
Georgia Power Co. et al., 30777
Tennessee Valley Authority, 30778

Virginia Electric & Power Co., 30778

Patent and Trademark Office
NOTICES
In Vitro International, Inc.; international depositary authority status termination, 30737

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities under OMB review, 30780

Personnel Management Office
PROPOSED RULES
Retirement:
Federal Employees Retirement System—
Basic annuity; death benefits and employee refunds, 30701
NOTICES
Agency information collection activities under OMB review, 30779, 30780
(2 documents)

Presidential Documents
PROCLAMATIONS
Special observances:
Literacy Day, National (Proc. 6312), 30855

Railroad Retirement Board
PROPOSED RULES
Railroad Unemployment Insurance Act:
Claims payment; right of notice, intervention and appeal, 30714
NOTICES
Agency information collection activities under OMB review, 30780

Resolution Trust Corporation
RULES
Contractor ethics suspension and exclusion procedures, 30836
NOTICES
Meetings; Sunshine Act, 30794

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Depository Trust Co., 30781, 30782
(2 documents)
Midwest Stock Exchange, Inc., 30783
Pacific Stock Exchange, Inc., 30783
Philadelphia Stock Exchange, Inc., 30784
Stock Clearing Corp. of Philadelphia, 30784
Applications, hearings, determinations, etc.:
Ruddick Corp., 30785

Small Business Administration
RULES
Small business investment companies:
Portfolio valuation, 30850
NOTICES
Agency information collection activities under OMB review, 30785
Disaster loan areas:
Louisiana et al., 30786
Mississippi, 30786
Pennsylvania, 30786
License surrenders:
Shawmut National Capital Corp., 30786
Meetings; regional advisory councils:
North Carolina, 30787
Puerto Rico, 30787
Small business investment companies:
Maximum cost of money; debenture rate, 30787
Applications, hearings, determinations, etc.:
Catalyst Fund, Ltd., 30787
CIBC Wood Gundy Ventures, Inc., 30787
First Pacific Capital Corp., 30787
Rural America Fund, Inc., 30788

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
John's Brook, NY, 30734

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 30722

Thrift Supervision Office
NOTICES
Meetings; Sunshine Act, 30794

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration

Treasury Department
See also Internal Revenue Service; Thrift Supervision Office
NOTICES
Agency information collection activities under OMB review, 30789, 30790
(2 documents)

Veterans Affairs Department
NOTICES
Agency information collection activities under OMB review, 30790–30792
(7 documents)

Separate Parts In This Issue

Part II
Department of Commerce, Bureau of Export Administration, 30798

Part III
Resolution Trust Corporation, 30836

Part IV
Department of Education, 30844

Part V
Department of the Interior, Bureau of Indian Affairs, 30848

Part VI
Small Business Administration, 30850

Part VII
The President, 30855

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
6312 30855

5 CFR
Proposed Rules:
842 30701
843 30701

8 CFR
338 30679
Proposed Rules:
204 30703

12 CFR
1618 30836

13 CFR
107 30850

14 CFR
39 (3 documents) 30680–30683
71 (2 documents) 30684, 30685
73 30685
95 30686

18 CFR
284 30692

20 CFR
Proposed Rules:
320 30714

26 CFR
Proposed Rules:
1 (2 documents) 30718–30721

28 CFR
0 30693

30 CFR
Proposed Rules:
917 30722

36 CFR
7 30694

42 CFR
442 30696
Proposed Rules:
417 30723

47 CFR
94 30698
Proposed Rules:
76 30726

50 CFR
675 30699

Rules and Regulations

Federal Register
Vol. 56, No. 129
Friday, July 5, 1991

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 338

[INS Number: 1267-91]

RIN 1115-AB84

Endorsement of Name Change on Certificate of Naturalization; Electronic Recordkeeping

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule will establish a uniform procedure for placing the endorsement of a name change on certificates of naturalization. The rule changes the placement of name changes from the reverse to the face of certificates. This rule also allows courts with automated systems to issue certificates without stubs if they maintain the data normally contained on the stub in an electronic database, and can forward on hard copy or transmit electronically, the information to the Immigration and Naturalization Service upon request. These actions will accommodate the needs of the Service and the courts in the preparation of certificates of naturalization, will save preparation time, and will provide standardization with regard to the placement of added information on certificates.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Raymond R. Jaroneski, Jr., Senior Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone (202) 514-3946.

SUPPLEMENTARY INFORMATION: Section 338 of the Immigration and Nationality Act (Act) instructs the clerk of court to issue a certificate of naturalization to each person admitted to citizenship by the court. Section 339 of the Act directs the clerk of court to keep on file a certificate stub for each certificate issued containing all essential facts set forth in the certificate. A duplicate of the certificate and the stub are forwarded to the Immigration and Naturalization Service by the court. 8 CFR 338.12 provides instructions as to where an endorsement will be placed and how that endorsement will read with regard to petitioners for naturalization whose names are changed by courts as part of the naturalization process. The current regulation requires the notation to be placed on the reverse of the original and duplicate certificates as well as on the stubs of these certificates. In order to meet the requirements in the current regulation, the clerk must reverse the certificate to print the endorsement. This is a time consuming task, and often causes errors if certificates are placed in an incorrect order in the printer. This same problem is experienced by the Service; therefore, to reduce errors and improve efficiency, the Service is revising the regulations to enable the courts or the Service to place the endorsement of the name change in a specific area on the front of the certificate of naturalization. This rule will also allow courts using automated systems to maintain court records of naturalization in an electronic database rather than storing the certificate stubs in a file container.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because these changes will be beneficial to the Service and the courts.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant impact on a substantial number of small entities. This is not a major rule within the meaning of section (1)(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 338

Administrative practice and procedure, Citizenship and naturalization, Reporting and recordkeeping requests.

Accordingly, part 338 of chapter I of title 8 of the Code of Federal Regulations, is amended as follows:

PART 338—CERTIFICATE OF NATURALIZATION

1. The authority citation for part 338 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1433, 1434, 1443, 1444, 1447, 1449, 1450; 8 CFR part 2.

2. Section 338.11 is revised to read as follows:

§ 338.11 Execution and issuance.

(a) When a petitioner for naturalization has taken and subscribed to the oath of allegiance, and a final order admitting the petitioner to citizenship has been signed by the court, a certificate of naturalization shall be issued in duplicate by the clerk of court on Form N-550 or N-550C. If the court maintains naturalization records using the certificate stub, the certificates and the stub of the original certificate shall be signed by the petitioner. If the court maintains naturalization records on an electronic database then only the certificates shall be signed by the petitioner and the information contained on the stub shall be entered into and maintained in the court's electronic database.

(b) The certificate shall show under "former nationality" the name of the country of which the petitioner was last a citizen, as shown on the petition, even though the petitioner may have been stateless at the time of admission to citizenship. The clerk of court or the authorized deputy shall endorse the alien registration number on the certificate stub, or if using automation equipment, ensure it is part of the electronic database record. The clerk of court or the authorized deputy shall personally sign the certificate, and ensure that the essential facts from the certificate are on the stub or entered into the electronic database record. Both certificates and stubs shall be prepared in one operation unless an automated system is used. Photographs shall be affixed to the original and duplicate certificates in the manner prescribed in 8 CFR part 333.

(c) The stub of the original certificate or the information recorded from the stub that is maintained on the electronic database shall be retained by the clerk of court. Courts using the certificate stub shall file and maintain the stub in a 3"×5" card file container. The electronic record shall be maintained in

an accessible database with a back-up system to ensure protection and integrity of data. The original certificate shall be delivered to the petitioner. The duplicate certificate shall not be separated from the stub, and shall be forwarded to the appropriate office of the Immigration and Naturalization Service with all other duplicate papers or records in accordance with 8 CFR part 333.

3. Section 338.12 is revised to read as follows:

§ 338.12 Endorsement in case name is changed.

Whenever the name of a petitioner has been changed by order of a court as part of a naturalization, the clerk of court or his or her authorized deputy shall make the following endorsement on the front of the original and duplicate certificate of naturalization: "Name changed by decree of court from ———, as part of the naturalization," inserting in full the original name of the petitioner. This notation will be inserted immediately following the year of naturalization. If the stubs are being kept as naturalization records, a similar notation will be made on the stubs of the original and duplicate certificates, an the stub of the original certificate will be signed by the petitioner in the name as changed. If the court is using an electronic database for naturalization recordkeeping, the name change information will be maintained in that database. The original certificate will be issued and the duplicate, with or without the stub, depending on the specific courts recorkdeeping system, will be sent to the Immigration and Naturalization Service.

Dated: May 29, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91-15875 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-19-AD; Amdt. 39-7061; AD 91-14-20]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires structural inspections and repair, or replacement, as necessary, to ensure continued airworthiness. This action increases the number of candidate airplanes and expands the inspection area. This amendment is prompted by a structural re-evaluation which has identified certain significant structural components in which cracks, if allowed to grow undetected, would result in a loss of structural integrity of the airplane.

DATES: Effective August 9, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 9, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2775. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 84-21-06 R1, Amendment 39-5813 (53 FR 6794, March 3, 1988), applicable to Boeing Model 737 series airplanes, with a new airworthiness directive (AD) that increases the number of candidate airplanes and expands the inspection area, was published in the **Federal Register** on March 18, 1991 (56 FR 11376).

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

The Air Transport Association (ATA) of America, on behalf of its member operators, expressed no objections to the rule as proposed.

Paragraphs A. and B. of the final rule have been revised to clarify the applicability of each paragraph.

Paragraph D. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative methods of compliance.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 153 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 500 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $165,000.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-5813 and by adding the following new airworthiness directive:

91-14-20. Boeing: Amendment 39-7061, Docket No. 91-NM-19-AD, supersedes AD 84-21-06 R1.

Applicability: Model 737 series airplanes; listed in Section 3.0 of Boeing Document No. D6-37089, Revision C, "Supplemental Structural Inspection Document" (SSID), dated January 1990; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure the continuing structural integrity of the Model 737 fleet, accomplish the following:

A. For airplanes identified in Boeing Document D6-37089, Revision B, dated February 18, 1987: Within three months after April 8, 1988 (the effective date of Amendment 39-5813, AD 84-21-06 R1), incorporate a revision in the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document No. D6-37089, "Supplemental Structural Inspection Document" (SSID), Revision B, dated February 18, 1987. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of Revision B of the SSID.

B. For airplanes identified in Boeing Document D6-37089, Revision C, dated January 1990: Within 1 year after the effective date of this amendment, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required DTR for each SSI listed in Boeing Document D6-37089, "SSID," Revision C, dated January 1990. The required DTR value for each SSI is listed in the document The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of Revision C of the SSID.

C. Cracked structure must be repaired, prior to further flight, in accordance with an FAA-approved method.

D. 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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

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

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

F. The inspection requirements shall be done in accordance with Boeing Document No. D6-37089, Revision C, dated January 1990, which includes the following list of affected pages:

Section	Page No.	Revision level
Volume 1		
A	1-13, 13.1-13.3, 24-30	C.
	23	B.
B	1	B.
	2	C.
C	1	C.
1.0	1-2	C.
2.0	1	(Original Issue).
	2, 4	C.
	3	B.
3.0	1-3	C.
4.0	3	(Original Issue).
	4	C.
5.0	1, 4, 6, 7, 9	C.
	5	B.
	2, 3, 8	A.
6.0	1, 2, 2.1	C.
7.0	3, 4, 6, 8	C.
	5, 7	B.
8.0	1, 3	B.
	2, 4	C.
8.1	1-3, W.10.3, W.17.1, W.17.9, W.17.15, W.19.2-W.19.4, W.19.6, W.27.1, W.27.5-W.27.7, W.27.15, W.27.16, W.31.1, W.42.1-W.42.3.	C.
	W.10.4, W.17.2, W.17.10, W.19.1, W.19.5, W.27.2, W.27.8	B.
	W.42.4	A.
	4, W.17.16, W.31.2	(Original Issue).
8.2	1-4, F.1.2, F.3.1, F.3.2, F.4.0-F.4.2, F.10.0, F.10.1, F.11.0, F.11.1, F.12.0, F.12.1, F.12.2, F.13.2-F.13.5, F.14.2-F.14.5, F.17.2, F.17.3, F.17.3.1-F.17.3.3, F.17.4-F.17.8, F.18.2-F.18.5, F.20.1, F.20.2, F.38.1, F.38.7, F.38.8, F.39.1-F.39.9, F.45.0-F.45.2.	C.
	F.1.1, F.10.2, F.11.2, F.18.1, F.38.2	B.
	F.17.1.3	A.
	F.9.3, F.10.7, F.13.1, F.14.0, F.14.1, F.15.0, F.19.0, F.39.10	(Original Issue).
8.3	1-3, E.14.2, E.19.2, E.19.4, E.20.1	C.
	E.1.0, E.20.2	(Original Issue).
9	1	C.
10.2.1	1, 2, 4, 5, 7-9, 16, 20, 21, 27, 28, 30	C.
	3, 6, 10, 15, 19, 22, 29	(Original Issue).
10.5	1, 6	C.
	2	B.
	5	(Original Issue).
Volume 2		
11.0	1	C.
11.1	1-3	C.
11.2	1-3, F.1, F.3, F.4, F.12, F.13A, F.13B, F.14A, F.14B, F.17A, F.17B, F.17C, F.17D, F.17E, F.18A, F.18B, F.20, F.38A. F.38B, F.39A.	C.
11.3	1, 2	C.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment supersedes Amendment 39-4933, AD 84-21-06 R1.

This amendment (39-7061, AD 91-14-20) becomes effective August 9, 1991.

Issued in Renton, Washington, on June 19, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-15919 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-33-AD; Amdt. 39-7062; AD 91-14-21]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which currently requires detailed visual inspection and replacement, if necessary, of the fixed trailing edge upper panel support beam clips. Eventual replacement of all clips with newly designed clips is also required. This amendment expands the applicability of the existing AD to add 22 airplanes. This amendment is prompted by information from the manufacturer which indicates that the clips on 22 additional airplanes are also subject to failure. This condition, if not corrected, could lead to the loss of an upper wing fixed trailing edge panel from the airplane, which could result in possible damage to the hydraulic lines and other structures.

DATES: Effective August 9, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 9, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124.

This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Rodriguez, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2779. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD-90-20-12, Amendment 39-6732 (55 FR 37860, September 14, 1990), applicable to certain Boeing Model 757 series airplanes, to require detailed visual inspections and replacement, if necessary, of the fixed trailing edge upper panel support beam clips, and eventual replacement of all clips with newly designed clips, was published in Federal Register on March 21, 1991 (56 FR 11970).

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

The Air Transport Association of America (ATA) commented on behalf of its members by expressing no objection to the adoption of the proposed rule.

The manufacturer recommended that the economic analysis paragraph be revised to increase the number of manhours required to accomplish the modification from 9 manhours (as cited in the preamble to the Notice) to 50 manhours. This recommendation was based on comments from the manufacturer's service engineering group and finance department. The FAA concurs and the economic analysis paragraph, below, has been revised to reflect these changes.

The economic analysis paragraph, has also been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

The FAA has determined that the described changes to the economic impact analysis of this rule will not significantly increase the economic burden on affected operators nor increase the scope of the rule.

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

There are approximately 163 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 100 airplanes of U.S. registry, including the 7 additional airplanes addressed in this action, will be affected by this AD. It will take approximately 50 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. The cost of required parts is estimated to be $762 per airplane. based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $14,584 for the additional airplanes affected.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-6732 and by adding the following new airworthiness directive:

91-14-21. BOEING: Amendment 39-7062, Docket No. 91-NM-33-AD. Supersedes AD 90-20-12.

Applicability: Model 757 series airplanes, listed in Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent failure of the fixed trailing edge upper panel support beam clips and consequent damage to airplanes structure and hydraulic lines, accomplish the following:

A. For airplanes line numbers 1 through 140 and 151:

1. Prior to the accumulation of 600 total landings, or within the next 30 days after October 23, 1990 (the effective date of Amendment 39-6732, AD 90-20-12), whichever occurs later, unless previously accomplished within the last 600 landings, and thereafter at intervals not to exceed 600 landings, perform a detailed visual inspection for cracks in the fixed trailing edge upper panel support beam clips, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Replace cracked clips with the newly designed clips in kit number 012N8660-1 or clips in kit number 012N8546-1 after modifying, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Upon completion, this action terminates the inspections required above, for those clips replaced.

2. Within 3,000 landings after October 23, 1990, replace all affected clips with newly designed or modified clips and spacers, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

B. For airplanes line numbers 141 through 150 and 152 through 163:

1. Prior to the accumulation of 600 total landings or within the next 30 days after the effective date of this amendment, whichever occurs later, unless previously accomplished within the last 600 landings, and thereafter at intervals not to exceed 600 landings, perform a detailed visual inspection for cracks in the fixed trailing edge upper panel support beam clips, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Replace cracked clips with the newly designed clips in kit number 012N8660-1 or clips in kit number 012N8546-1 after modifying, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Upon completion, this action terminates the inspections required above, for those clips replaced.

2. Within 3,000 landings after the effective date of this AD, replace all affected clips with newly designed or modified clips and spacers, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

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, Seattle 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, Seattle 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. The inspections and repairs shall be done in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 37076, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment supersedes Amendment 39-6732, AD 90-20-12.

This amendment (39-7062, AD 91-14-21) becomes effective August 9, 1991.

Issued in Renton, Washington, on June 19, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-15920 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-20-AD; Amdt. 39-7057; AD 91-14-16]

Airworthiness Directives; British Aerospace Viscount Model 744 and 745D Series Airplanes (Post Modification D2267, Part B), and Model 810 Series Airplanes (Post Modification FG611, Part B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Viscount Model 744 and 745D series airplanes (Post Modification D2267, Part B), and Model 810 series airplanes (Post Modification FG611, Part B), which requires a one-time inspection to detect incorrectly manufactured upper break-joint shear pins, and replacement, if necessary. This amendment is prompted by a report that a batch of incorrectly machined pins may have been fitted into certain Model 744, 745D, and 810 series airplanes. This condition, if not corrected, could result in reduced structural integrity of the wings.

DATES: Effective August 9, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 9, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Viscount Model 744 and 745D series airplanes (Post Modification D2267, Part B), and Model 810 Series Airplanes (Post Modification FG611, Part B), which requires a one-time inspection to detect incorrectly manufactured upper break-joint shear pins, and replacement, if necessary, was published in the Federal Register on March 20, 1991 (56 FR 11700).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the change previously described. The FAA has determined that this change will neither significantly increase the economic burden on any operator, nor increase the scope of the AD.

It is estimated that 29 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,190.

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 the Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91-14-16. BRITISH AEROSPACE: Amendment 39-7057. Docket No. 91-NM-20-AD.

Applicability: Viscount Model 744 and 745D series airplanes (Post Modification D2267, Part B), and Model 810 series airplanes (Post Modification FG611, Part B), certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the wings, accomplish the following:

A. Within 200 hours time-in-service or within 90 days after the effective date of this AD, whichever occurs first, inspect the upper break-joint for an incorrectly manufactured shear pin, Part No. 80203-3009, in accordance with British Aerospace Viscount Preliminary Technical Leaflet (PTL) No. 322, Issue 1 (for the Model 810 series airplanes), both dated November 2, 1989. If damaged components or unserviceable short pins are found, prior to further flight, replace with serviceable parts in accordance with the appropriate PTL.

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, Standardization Branch, ANM-113, 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, Standardization Branch, ANM-113.

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

D. The inspection and replacement requirements shall be done in accordance with British Aerospace Viscount Preliminary Technical Leaflet (PTL) No. 322, Issue 1 (for Model 700 series airplanes), or PTL No. 191, Issue 1 (for Model 810 series airplanes), both dated November 2, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment becomes effective August 9, 1991.

Issued in Renton, Washington, on June 18, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-15921 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 91-ANE-18]

Amendment to Machias Transition Area, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the description of the Machias, ME, Transition Area to correct certain inadvertent errors in the location of the airport and nondirectional beacon (NDB). In addition, this action will change the bearing of the Machias NDB. This change will improve navigation by aligning the associated airspace with prescribed approach procedures.

EFFECTIVE DATE: 0901 u.t.c., September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations corrects errors that were discovered in the description of the Machias, ME, Transition Area as published January 16, 1986, 50 FR 47358. The location of the airport should read lat. 44°42'11" N., long. 67°28'43" W. The location of the NDB should read lat. 44°42'16" N, long. 67°28'44" W. The NDB 177° magnetic bearing should read 158° true bearing.

The original airspace docket was submitted to the Department of Defense and the Department of State in accordance with Executive Order 10854. The application of International Civil Aviation Organization (ICAO) International Standards and Recommended Practices will not be affected by this action. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendments

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Machias, ME [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Machias Valley Airport (lat. 44°42'11" N., long. 67°28'43" W.) and within 3 miles each side of the Machias NDB (lat. 44°42'16" N., long. 67°28'44" W.) 158° bearing extending from the 5-mile radius to 8.5 miles southeast.

Issued in Washington, DC, on June 19, 1991.

Jerry W. Ball,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 91-15960 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 90-AWP-14]

Consolidation of Restricted Areas R-3104A and R-3104B Island of Kahoolawe, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Restricted Areas R-3104A and R-3104B Island of Kahoolawe, HI, and adds Restricted Area R-3104. Since the two existing restricted areas are used simultaneously, it is more appropriate to consolidate them into one area. Additionally, this action reduces the time of designation, thus returning airspace to the public more frequently. Part 71 is also amended by removing R-3104B from the Continental Control Area and adding R-3104.

EFFECTIVE DATE: 0901 u.t.c., September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Ullom, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-7683.

SUPPLEMENTARY INFORMATION:

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations remove Restricted Areas R-3104A and R-3104B Island of Kahoolawe, HI, and add Restricted Area R-3104. Presently, R-3104A extends from surface to but not including 5,000 feet mean sea level (MSL) with a continous time of designation. It was established based on a possible hazard to the general public due to inadvertent detonation of unexploded ordance. R-3104B extends from 5,000 feet MSL to 18,000 feet MSL with a time of designation of 0700-2200 local time daily; other times by NOTAM issued at least 24 hours in advance. Since the potential hazard no longer exists and the areas are not scheduled independently, it was decided to consolidate the areas into one restricted area and revise the time of designation. The revised time is 0700-2200 local time, Monday to Friday; 0700-1800 local time, weekends and holidays; other times by NOTAM. This action more accurately reflects usage of the restricted airspace and returns the airspace to the public more frequently.

Part 71 is amended by removing R-3104B from the Continental Control Area and adding R-3104. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor technical amendments in which the public would not be particularly interested. Sections 71.151 and 73.31 of parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6G dated September 4, 1990.

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

Environmental Review

This action does not alter the dimensions of restricted airspace, nor is the mission conducted within the airspace changed. it consolidates two existing areas into one and reduces the time of designation. Accordingly, this action will have no effect on current air traffic procedures or on routing of altitude of civil aircraft operations in the area. The FAA, therefore, finds that there will be no significant impact on the environment as a result of this action.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, and Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) are amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R-3104B Island of Kahoolawe, HI [Removed]

R-3104 Island of Kahoolawe, HI [New]

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.31 [Amended]

4. Section 73.31 is amended as follows:

R-3104A Island of Kahoolawe, HI [Removed]

R-3104B Island of Kahoolawe, HI [Removed]

R-3104 Island of Kahoolawe, HI [New]

Boundaries. Beginning at lat. 20°34'20" N., long. 156°40'30" W.; thence clockwise 1 nautical mile from and parallel to the shoreline to lat. 20°36'20" N., long. 156°36'30" W.; to lat. 20°36'20" N., long. 156°34'50" W.; to lat. 20°35'20" N., long. 156°31'45" W.; thence clockwise 1 nautical mile from and parallel to the shoreline to lat. 20°30'20" N., long. 156°31'45" W.; to lat. 20°30'00" N., long. 156°31'00" W.; to lat. 20°28'30" N., long. 156°30'45" W.; thence clockwise 3 nautical miles from and parallel to the shoreline to lat. 20°35'25" N., long. 156°43'00" W.; to the point of beginning.

Designated altitudes. Surface to 18,000 feet MSL.

Time of designation. 0700–2200 local time, Monday and Friday; 0700–1800 local time, weekends and holidays; other times by NOTAM.

Controlling agency. FAA, Honolulu CERAP.

Using agency. U.S. Navy, Fleet Area Control and Surveillance Facility, Pearl Harbor, HI.

Issued in Washington, DC, on June 25, 1991.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-15959 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 26583; Amdt. No. 364]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: July 25, 1991.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft if in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

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

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on June 17, 1991.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 GMT:

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

PART 95—[AMENDED]

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 364 EFFECTIVE DATE, JULY 25, 1991

§95.6001 VOR FEDERAL AIRWAY 1
IS AMENDED TO READ IN PART

FROM	TO	MEA
COFIELD, NC VORTAC	DRONE, NC FIX	2000
DRONE, NC FIX	NORFOLK, VA VORTAC	10000
NORFOLK, VA VORTAC	CAPE CHARLES, VA VORTAC	10000

§95.6004 VOR FEDERAL AIRWAY 4
IS AMENDED TO READ IN PART

FROM	TO	MEA
ITALY, WV FIX	REACH, WV FIX	8500
REACH, WV FIX	ELKINS, WV VORTAC	*5000
*3800 - MOCA		

§95.6007 VOR FEDERAL AIRWAY 7
IS AMENDED TO READ IN PART

FROM	TO	MEA
MENOMINEE, MI VOR/DME	*FELCH, MI FIX	3600
*8000 - MRA		
FELCH, MI FIX	MARQUETTE, MI VOR/DME	3600

§95.6010 VOR FEDERAL AIRWAY 10
IS AMENDED BY ADDING

FROM	TO	MEA
REVLOC, PA VOR/DME	LANCASTER, PA VORTAC	5000

§95.6051 VOR FEDERAL AIRWAY 51
IS AMENDED TO READ IN PART

FROM	TO	MEA
SHELBYVILLE, IN VORTAC	OCKEL, IN FIX	3000
OCKEL, IN FIX	BOILER, IN VORTAC	*2500
*2100 - MOCA		

§95.6091 VOR FEDERAL AIRWAY 91
IS AMENDED TO READ IN PART

FROM	TO	MEA
ALBANY, NY VORTAC	GLENS FALLS, NY VORTAC	7000
GLENS FALLS, NY VORTAC	ENSON, VT FIX	10000

§95.6097 VOR FEDERAL AIRWAY 97
IS AMENDED TO READ IN PART

FROM	TO	MEA
SHELBYVILLE, IN VORTAC	OCKEL, IN FIX	3000
OCKEL, IN FIX	BOILER, IN VORTAC	*2500
*2100 - MOCA		

§95.6139 VOR FEDERAL AIRWAY 139
IS AMENDED TO READ IN PART

FROM	TO	MEA
PEARS, NC FIX	NORFOLK, VA VORTAC	10000
NORFOLK, VA VORTAC	CAPE CHARLES, VA VORTAC	10000
INNDY, RI FIX	TONNI, MA FIX	6000
TONNI, MA FIX	SEEDY, NH FIX	5000

§95.6143 VOR FEDERAL AIRWAY 143
IS AMENDED TO READ IN PART

FROM	TO	MEA
LANCASTER, PA VORTAC	POTTSTOWN, PA VORTAC	4500

§95.6166 VOR FEDERAL AIRWAY 166
IS AMENDED TO READ IN PART

FROM	TO	MEA
IKESSEL, WV VOR/DME	CAPON, WV FIX	*5000
*4500 - MOCA		

§95.6203 VOR FEDERAL AIRWAY 203
IS AMENDED TO READ IN PART

FROM	TO	MEA
ALBANY, NY VORTAC	*WAREN, NY FIX	3700
*7000 - MRA		
WAREN, NY FIX	*GASSY, NY FIX	4500
*10000 - MRA		

§95.6268 VOR FEDERAL AIRWAY 268
IS AMENDED TO READ IN PART

FROM	TO	MEA
SANDY POINT, RI VOR/DME	INNDY, RI FIX	2000
INNDY, RI FIX	BURDY, MA FIX	6000

§95.6287 VOR FEDERAL AIRWAY 287
IS AMENDED TO READ IN PART

FROM	TO	MEA
CARRO, WA FIX	*BREDA, WA FIX	**5000
*5500 - MCA BREDA FIX, N BND		
**4400 - MOCA		

§95.6330 VOR FEDERAL AIRWAY 330
IS AMENDED TO READ IN PART

FROM	TO	MEA
*IDAHO FALLS, ID VOR/DME	OSITY, ID FIX	
	W BND	8000
	E BND	10000
*7500 - MCA IDAHO FALLS VOR/DME, E BND		
RIVERTON, WY VOR/DME	MUDDY MOUNTAIN, WY VORTAC	8500

FROM	TO	MEA

§95.6357 VOR FEDERAL AIRWAY 357

IS ADDED TO READ

KODIAK, AK VORTAC	INNOL, AK FIX	3500
INNOL, AK FIX	MOCHO, AK FIX	*4000
*3000 - MOCA		
MOCHO, AK FIX	GERKS, AK FIX	*7500
*6500 - MOCA		
GERKS, AK FIX	SANER, AK FIX	*9000
*3000 - MOCA		
SANER, AK FIX	HOMER, AK VORTAC	6000

§95.6403 VOR FEDERAL AIRWAY 403

IS AMENDED TO READ IN PART

POTTSTOWN, PA VORTAC	SOLBERG, NJ VORTAC	5000

§95.6405 VOR FEDERAL AIRWAY 405

IS AMENDED TO READ IN PART

POTTSTOWN, PA VORTAC	LANNA, NJ FIX	5000

§95.6428 VOR FEDERAL AIRWAY 428

IS AMENDED TO READ IN PART

SISTERS ISLAND, AK VORTAC	HAINES, AK NDB	#*10000
*8600 - MOCA		

#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.

§95.6431 VOR FEDERAL AIRWAY 431

IS AMENDED TO READ IN PART

BRATS, VT FIX	GLENS FALLS, NY VORTAC	7000
GLENS FALLS, NY VORTAC	*GASSY, NY FIX	10000
*10000 - MRA		

§95.6451 VOR FEDERAL AIRWAY 451

IS AMENDED TO READ IN PART

AVONN, RI FIX	INNDY, RI FIX	2000
INNDY, RI FIX	TONNI, MA FIX	6000
TONNI, MA FIX	SEEDY, NH FIX	5000
SEEDY, NH FIX	BRUNSWICK (NAVY), ME VORTAC	7500

§95.6465 VOR FEDERAL AIRWAY 465

IS AMENDED TO READ IN PART

REDLO, MT FIX	LAREI, MT FIX	
	N BND	7200
	S BND	16000

§95.6469 VOR FEDERAL AIRWAY 469

IS AMENDED TO READ IN PART

RELEE, VA FIX	BRUCY, VA FIX	8000
BRUCY, VA FIX	BOIER, WV FIX	12500
BOIER, WV FIX	ELKINS, WV VORTAC	8500

§95.6487 VOR FEDERAL AIRWAY 487

IS AMENDED TO READ IN PART

CAMBRIDGE, NY VORTAC	*GRISS, NY FIX	4000
*10000 - MRA		

§95.6489 VOR FEDERAL AIRWAY 489

IS AMENDED TO READ IN PART

ALBANY, NY VORTAC	GLENS FALLS, NY VORTAC	7000

§95.6496 VOR FEDERAL AIRWAY 496

IS AMENDED TO READ IN PART

MALLO, NY FIX	GLENS FALLS, NY VORTAC	7000
GLENS FALLS, NY VORTAC	KERST, VT FIX	10000

§95.6500 VOR FEDERAL AIRWAY 500

IS ADDED TO READ

SHEMYA, AK VORTAC	BELTZ, AK FIX	2500
BELTZ, AK FIX	CREEL, AK FIX	*11000
*4200 - MOCA		
CREEL, AK FIX	AMCHITKA, AK VORTAC	3500
AMCHITKA, AK VORTAC	NUTRE, AK FIX	2500
NUTRE, AK FIX	ADAK (NAVY), AK NDB	*11000
*6300 - MOCA		

§95.6520 VOR FEDERAL AIRWAY 520

IS AMENDED TO READ IN PART

LEWISTON, ID VOR/DME	FERDI, ID FIX	
	W BND	6700
	E BND	12000
DUBOIS, ID VORTAC	*JACKSON, WY VOR/DME	15000
*14500 - MCA JACKSON VOR/DME, W BND		

§95.6525 VOR FEDERAL AIRWAY 525

IS ADDED TO READ

AMCHITKA, AK VORTAC	KODEE, AK FIX	2500
KODEE, AK FIX	FRIES, AK FIX	*11000
*2300 - MOCA		
FRIES, AK FIX	ADAK (NAVY), AK NDB	*11000
*7400 - MOCA		

FROM	TO	MEA	MAA
§95.7042 JET ROUTE NO. 42			
	IS AMENDED TO READ IN PART		
HARTFORD, CT VORTAC	PUTNAM, CT VOR/DME	18000	45000
PUTNAM, CT VOR/DME	BOSTON, MA VORTAC	18000	45000
§95.7066 JET ROUTE NO. 66			
	IS AMENDED BY ADDING		
NEWMAN, TX VORTAC	ABILENE, TX VORTAC	#33000	45000
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			
ABILENE, TX VORTAC	DALLAS/FORT WORTH, TX VORTAC	18000	45000
§95.7225 JET ROUTE NO. 225			
	IS AMENDED TO READ		
CEDAR LAKE, NJ VORTAC	KENNEDY, NY VORTAC	18000	35000
KENNEDY, NY VORTAC	PROVIDENCE, RI VORTAC	18000	45000
§95.7237 JET ROUTE NO. 237			
	IS ADDED TO READ		
SHEMYA, AK VORTAC	AMCHITKA, AK VORTAC	18000	45000
AMCHITKA, AK VORTAC	ADAK (NAVY), AK NDB	18000	45000
§95.7238 JET ROUTE NO. 238			
	IS ADDED TO READ		
AMCHITKA, AK VORTAC	FRIES, AK FIX	18000	45000
FRIES, AK FIX	ADAK (NAVY), AK NDB	18000	45000
§95.7244 JET ROUTE NO. 244			
	IS ADDED TO READ		
LAS VEGAS, NM VORTAC	ZUNI, NM VORTAC	21000	45000
ZUNI, NM VORTAC	SALT RIVER, AZ VORTAC	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	V-91		
	IS AMENDED TO DELETE		
ALBANY, NY VORTAC	GLENS FALLS, NY VORTAC	12	ALBANY
	V-143		
	IS AMENDED TO DELETE		
LANCASTER, PA VORTAC	POTTSTOWN, PA VORTAC	15	LANCASTER
	V-166		
	IS AMENDED TO DELETE		
KESSEL, WV VOR/DME	MARTINSBURG, WV VORTAC	26	KESSEL
	V-465		
	IS AMENDED TO READ IN PART		
DUNOIR, WY VOR/DME	BILLINGS, MT VORTAC	55	DUNOIR
	V-489		
	IS AMENDED TO DELETE		
ALBANY, NY VORTAC	GLENS FALLS, NY VORTAC	12	ALBANY
	V-500		
	IS AMENDED BY ADDING		
SHEMYA, AK VORTAC	AMCHITKA, AK VORTAC	100	SHEMYA

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-237		
	IS AMENDED BY ADDING		
SHEMYA, AK VORTAC	AMCHITKA, AK VORTAC	100	SHEMYA
	J-244		
	IS AMENDED BY ADDING		
LAS VEGAS, NM VORTAC	ZUNI, NM VORTAC	86	LAS VEGAS

[FR Doc. 91-15958 Filed 7-2-91; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM87-34-065; Order No. 500-L]

Natural Gas Pipelines After Partial Wellhead Decontrol

Issued June 25, 1991.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying a request for rehearing of Order No. 500-K, 56 Fed. Reg. 14848 (Apr. 12, 1991), FERC Stats. & Regs. ¶ 30,917, concerning the availability of credits against a pipeline's take-or-pay liability after December 31, 1990. In Order No. 500-K, the Commission addressed the court's remand in *American Gas Association* v. *FERC (AGA II)*, 912 F.2d 1496 (D.C. Cir. 1990), and concluded that the mechanism under Order No. 500-H (FERC Stats. & Regs. ¶ 30,867) whereby producers gave credits against pipelines' take-or-pay liability did not result in improper "double credits." Order No. 500-K also removed the take-or-pay crediting regulations from part 284 of the Commission's regulations, since those regulations had terminated on December 31, 1990.

The Commission reaffirms its decision in Order No. 500-K that after December 31, 1990, pipelines are not permitted to apply credits generated by transportation before that date against take-or-pay liability incurred before that date.

EFFECTIVE DATE: June 25, 1991.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426, (202) 208-1274.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street NE., Washington, DC.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 bauds, full duplex, no parity, 8 data bits, and 1 stop bit. The full text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street NE., Washington DC 20426.

I. Introduction

On April 4, 1991, the Commission issued Order No. 500-K,[1] addressing a number of matters concerning the Commission's take-or-pay crediting regulations included in part 284 (§§ 284.8(f) and 284.9(f)).[2] This order denies a joint request for rehearing of Order No. 500-K filed by ANR Pipeline Company (ANR) and Colorado Interstate Gas Co. (CIG).

II. Background

In *American Gas Association* v. *FERC (AGA II)*,[3] the United States Court of Appeals for the District of Columbia Circuit affirmed the Commission's decisions in Order Nos. 500-H and 500-I creating a crediting mechanism "in virtually all respects." [4] The court did, however, remand one issue concerning crediting, a contention by producers that in certain circumstances the crediting regulations resulted in improper "double credits." In Order No. 500-K, on remand, the Commission found that the take-or-pay crediting regulations did not result in improper double crediting.

In addition, the Commission removed the take-or-pay crediting regulations from part 284, because those regulations had terminated on December 31, 1990. The Commission also required that, on or before October 15, 1991, pipelines must modify their tariffs to remove all tariff language related to the implementation of crediting.[5] Finally, the Commission dismissed various complaints and petitions for declaratory order or rulemaking, requesting either (1) that the Commission exercise its authority under section 5 of the Natural Gas Act to modify take-or-pay contracts with producers or (2) that the Commission interpret its crediting regulations.

ANR Pipeline Company (ANR) and Colorado Interstate Gas Co. (CIG) have filed a joint request for clarification or rehearing of Order No. 500-K. No other party sought rehearing of that order.

The only issue raised by ANR and CIG relates to a statement that the Commission made in connection with the Commission's deletion of the crediting regulations from part 284. In support of the deletion of those regulations, the Commission stated that pursuant to §§ 284.8(f)(1) and 284.9(f)(1), the crediting program terminated on December 31, 1990. The Commission then continued,

> As the Commission stated in Order No. 500-I, this means not only that pipelines cannot seek credits for transportation performed after December 31, 1990, but also that they may not after December 31, 1990 apply against any take-or-pay liability previously unused credits generated by transportation performed before December 31, 1990.

On rehearing, ANR and CIG ask that the Commission clarify that this statement means only that, after December 31, 1990, pipelines may not apply pre-December 31, 1990 credits against take-or-pay obligations that accrue after December 31, 1990. ANR and CIG contend that pipelines should be permitted to apply credits earned before December 31, 1990, against take-or-pay obligations that accrued on or before that date, even though the pipeline does not inform the producer of that application of credits until after December 31, 1990. They assert that a number of practical difficulties may have prevented the actual application of pre-December 31, 1990 credits against pre-December 31, 1990 take-or-pay obligations by December 31, 1990.

For example, ANR and CIG state that pipelines' take-or-pay obligations are generally calculated on an annual basis, and the necessary data to determine whether the pipeline took a sufficient quantity of gas to avoid take-or-pay liability is not compiled until after the contract year ends. Thus, pipelines may not know whether they incurred take-or-pay liability during 1990 under particular contracts until after December 31, 1990. ANR and CIG also note that, when gas is transported on more than one pipeline, the pipelines involved must negotiate agreements among themselves concerning the division of the single credit that can be generated by the transportation of the gas; they assert that in many cases those agreements for gas transported in 1990 could not be

[1] 56 Fed. Reg. 14848 (Apr. 12, 1991), FERC Stats. & Regs. ¶ 30,917.

[2] 18 C.F.R. 284.8(f) and 284.9(f).

[3] 912 F.2d 1496 (D.C. Cir. 1990).

[4] *Id.* at 1503.

[5] The Commission stated that pipelines may do this either as part of another rate filing or in a separate filing.

completed until after December 31, 1990. Thus, they argue, pipelines may not know until after December 21, 1990, either the total amount of credits generated by their pre-December 31, 1990 transportation or the total take-or-pay liability incurred in connection with their pre-December 31, 1990 performance under their take-or-pay contracts. Consequently, according to ANR and CIG, it was not possible by December 31, 1990, to apply all pre-December 31, 1990 credits against pre-December 31, 1990 liability. ANR and CIG contend that, unless their requested clarification is granted, they may lose up to $23 million in take-or-pay credits that could otherwise be applied against their pre-December 31, 1990 take-or-pay liability.

Discussion

The Commission recognizes that, as a practical matter, pipelines could not by December 31, 1990, have applied all credits generated by pre-December 31, 1990, have applied all credits generated by pre-December 31, 1990 transportation against pre-December 31, 1990 take-or-pay liability. However, the issue whether pipelines could, after the December 31, 1990 sunset date, apply unused credits against pre-December 31, 1990 take-or-pay liability was raised by Indicated Producers on rehearing of Order No. 500-H. In Order No. 500-I, issued on February 12, 1990, the Commission addressed this issue as follows:

> Finally, Indicated Producers ask for clarification of Order No. 500-H to make clear that from and after the termination of crediting under this rule, a pipeline can no longer apply credits previously earned to relieve it of take-or-pay obligations which are then in existence or which may thereafter accrue. The Commission clarifies that this was its intent.[6]

The reference in Order No. 500-I to "take-or-pay obligations which are then in existence or which may thereafter accrue" includes all take-or-pay obligations, whether accruing before or after December 31, 1990. Thus, Order No. 500-I put all parties, both pipelines and producers, on notice that pipelines would not be permitted to apply pre-December 31, 1990 credits against pre-December 31, 1990 take-or-pay liability after December 31, 1990.

While this policy may have resulted in some pipelines losing credits that otherwise could be applied against take-or-pay liability, such a firm cut-off date for the application of credits was the only way to bring the crediting program to a complete end as of December 31, 1990. Otherwise, pre-December 31, 1990 credits might have been saved indefinitely for later application against pre-December 31, 1990 take-or-pay liability not resolved by the pipeline and producer through settlement. Such a result would be contrary to the Commission's determination in Order No. 500-H that,

> The downward trend in take-or-pay exposure under order No. 500 indicates that by the end of 1990 pipeline take-or-pay problems should be reduced to the point that the advantages of any further continuation of crediting will be outweighed by the burdens of crediting on the transportation and production of gas.

On rehearing of Order No. 500-I, Natural Gas Pipeline Co. (Natural) sought clarification, or in the alternative rehearing, "that credits, once earned, are always available to mitigate take-or-pay claims by producers for periods prior to the credit termination date" [7]—the same issue which ANR and CIG now raise. The Commission denied Natural's rehearing request by operation of law. No party pursued this matter in their judicial appeals of Order Nos 500-H and 500-I. The court's AGA II decision, issued August 24, 1990, affirmed the Commission's crediting regulations in their entirety, including the sunset date, except for the remand to the Commission of the "double crediting" issue raised by producers, an issue unrelated to the sunset date.

In these circumstances, when crediting came to an end on December 31, 1990, both pipelines and producers were on notice that credits that were unapplied as of that date could not be applied thereafter against any take-or-pay liability, including take-or-pay liability attributable to periods before December 31, 1990. The Commission does not believe that it would be appropriate at this time, after the sunset date, to change a policy on which some parties may have relied as the crediting program was coming to an end.

The Commission orders:

The request for clarification and rehearing by ANR and CIG is denied.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15923 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[6] Order No. 500-I, FERC Sta's. and Regs. ¶30,880 at p. 31,710.

[7] Natural's Request for Clarification or in the Alternative Rehearing of Order No. 500-I at p. 2.

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Attorney General Order No. 1506-91]

Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule will permit the Director, Office of Attorney Personnel Management, to redelegate authority to take final action in certain attorney personnel matters. The rule is proposed to streamline the attorney personnel process and to maximize Departmental resources. The rule also corrects the authority citation for part 0.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Joyce L. Ellis, Deputy Director, Office of Attorney Personnel Management, Department of Justice, Washington, DC 20530 (202/514-1101).

SUPPLEMENTARY INFORMATION: This order deals with agency organization and management. It is not required to be and has not been published in proposed form for comment.

This regulation is not a major rule within the meaning of Executive Order 12291. Therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities and, therefore, a regulatory flexibility analysis is not required under 5 U.S.C. 604.

List of Subjects in 28 CFR Part 0

Administrative practice and procedure, Authority delegation.

Accordingly, title 28, part 0, subpart C of the Code of Federal Regulations is amended as set forth below:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

2. Section 0.15 is amended by revising paragraph (e)(2) to read as follows:

§ 0.15 Deputy Attorney General.

(e) * * *

(2) The Director, Office of Attorney Personnel Management, may redelegate the authority provided in paragraph (e)(1) of this section.

* * * * *

Dated: June 25, 1991.

Dick Thornburgh,

Attorney General.

[FR Doc. 91-15980 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN: 1024-AB85

Ozark National Scenic Riverways; Restriction for Motorized Vessels

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking amends 36 CFR 7.83 by revising paragraph (a), which designates zones of motorboat operation; restrict horsepower; and specify dates when the use of motors is restricted. This revision is necessary in order to resolve user conflicts, protect the quality of the rivers and the recreational experiences, and address visitor safety concerns. The intended effects are to increase safety, reduce conflicts and provide maximum recreational benefits to all river users.

EFFECTIVE DATE: This regulation is effective on August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur L. Sullivan, Superintendent, Ozark National Scenic Riverways, Telephone: (314) 323-4236.

SUPPLEMENTARY INFORMATION:

Background

When the Ozark National Scenic Riverways was created in 1964, outboard motorboats were not a problem. The only outboard motorboats operation on the Current and Jacks Fork Rivers were the conventional propeller-driven motors with elongated shafts. These motors worked fine in deeper waters, but in shallow waters the propellers could hit bottom, resulting in damage and frequent change of propellers. To get around this problem, local boaters fitted their motors with a lever that when lowered, would lift the shaft and propeller out of the water while the operator skimmed across shallow areas in the rivers, in many places only a few inches deep. It took a great deal of skill and coordination to maneuver a boat through the shallows, as the operator was required to increase his speed as approaching the shallows and press down on this lever at the right moment in order to lift the shaft and propeller out of the water to avoid damage while n aintaining sufficient momentum to get across the shallows and into deeper waters where normal operations could be resumed. Because of this situation, most of the motorboats operating on the Current and Jacks Fork Rivers did not exceed 20 h.p. as larger motors were more difficult to lift with a lever because of the increased weight. However, a few motorboats up to 40 h.p. could be found in the lower Current River where the river is broader and deeper than the upper reaches of the Current River and Jacks Fork River. The very nature of the narrow, winding and frequently shallow rivers coupled with the skill and coordination required to maneuver these streams tended to self-limit both the motor sizes and number of boaters operating on the rivers. Motorboats and other rivers users co-existed rather peacefully, so long as that situation prevailed.

Beginning in 1976 this situation changed abruptly when the first outboard motors retrofitted with jet pumps were introduced on the streams comprising the Ozark Riverways. It soon became evident to boating enthusiasts that the newly introduced "jet motors" could operate easily in only inches of water and that no special skills were required. As a consequence, the number of boaters increased dramatically, as did the size of outboard motors no longer encumbered by the shallowness of the rivers. From approximately 11,000 boaters in the early 1970's, about 40,000 boaters were recorded in 1989. The smaller traditional motors with shaft and propellers have all but disappeared from the rivers and Ozark Riverways is now dominated by large outboard jet motors, some with as much as 265 horsepower. Along with the increase in the number of boaters and the size of motors came a rise in conflicts with other rivers users—canoeists, tube floaters, fishermen and swimmers. The large motors generated greater speed, some in excess of 50 mph, larger wakes, and required more space in proportion to their speed. They became a serious safety concern as well as a source of widespread dissatisfaction among other river user groups. Coincident with the increase in the number and size of boats and motors was an increase in the number of canoeists and tubers. Canoe floater days increased from about 143,000 in 1975 to a high of 308,000 in 1982. Tubing statistics were first gathered in 1974 showing this form of river use to be a relatively minor activity with only 2,500 tubers counted that year. Yet this use too has grown dramatically to where nearly 38,000 tubers were recorded in 1988.

The National Park Service first addressed river use issues in a General Management Plan initiated in 1979, with a completed draft in 1981. During the planning process and extensive public involvement, two issues emerged as cause of greatest public concern—perceptions of overcrowding by canoeists and oversized motorboats. These issues were addressed in the GMP but final approval of the plan was deferred, primarily because commercial canoe use became involved in litigation. Since the court decision might have affected the GMP, an administrative decision was made in 1984 to address river use issues in a separate River Use Management Plan so that management could proceed with implementation of the non-controversial issues discussed in the GMP. On this basis, the GMP was approved December 7, 1984, and the park proceeded with the development of a River Use Management Plan, completing the draft in November, 1986. In 1985 the United States District Court handed down its final decision clearly establishing the authority of the Federal Government to control commercial canoe operations at Ozark Riverways, thus concluding the litigation.

During the preparation of the River Use Management Plan, seven public meetings were held in nearby communities, as well as St. Louis, Kansas City, Columbia, Cape Girardeau, Missouri. More than 1,250 copies of the draft were distributed to various public agencies, organizations and individuals. In addition to comments received at public meetings, 1,680 mail responses were received and analyzed for consideration in preparing the final document.

Again, public response overwhelmingly favored reducing canoe-use densities and placing horsepower limits on outboard motors. The River Use Management Plan, which was ultimately approved May 11, 1989, has successfully addressed public perceptions of overcrowding through the establishment of canoe density levels ranging from low (up to 10 canoes per mile) to high (up to 70 canoes per mile), and assigning these density levels to ten separate river zones. The general public has been made aware of this system through the development of a River Use Guide as an aid to rivers users in selecting the type of river recreational experience which meets their preference. The proposed outboard motor horsepower regulations, with respect to maximum limits, assigned zones and times of year, were designed to reduce conflicts between other river users (particularly canoeists), increase safety, provide year-round fishing

cpportunities, and enhance visitor enjoyment of the resources.

The need to define the horsepower rating method was prompted by the recent advent of rating horsepower at the propulsion device by some manufacturers, rather than ratings based on the use of the prevailing industry standard that measures output at the propeller shaft. This resulted in different interpretation of what size engine could be used on park waters.

The very nature of the shallow, narrow rivers precludes the use of boats with inboard motors. Thus, this regulation only addresses outboard engines, the tradition engine used on the rivers.

The outboard motor horsepower restrictions are intended to complement other elements in the River Use Management Plan for Ozark Riverways. River zoning, canoe-density levels, horsepower restrictions and public education are all essential ingredients for a diversified, well-balanced river recreation program that will minimize river use conflicts, maximize public safety and enhance visitor enjoyment of park resources.

Discussion of Public Comments

Public comments were invited in response to the proposed rule published in the March 8, 1990 edition of the **Federal Register** (55 FR 8487–8489). A total of 41 individual comments and a petition with 423 names were received by the Superintendent, Ozark National Scenic Riverways, during the 30-day public comment period beginning March 8, 1990 and ending April 9, 1990.

Of the 41 individual comments on the proposed rule the national Park Service received, thirty (30) generally supported the proposed rule or favored even stricter regulations regarding designating zones, conditions, and periods of motorboat operation, while eleven (11) generally opposed the regulation, favoring either lesser restrictions or no regulation at all. In addition, one petition with 423 names, 230 of which were identifiable and contained addresses, was received opposing any limitation on horsepower for motorized vessels. Although this petition made no specific reference to the published proposed regulations, its timing and purpose was clearly to oppose any regulation restricting horsepower limits on boats and, therefore, was considered among the respondents.

Clearly, the issue of horsepower limitations is the most controversial aspect of the regulation. Nineteen (19) individual commenters felt that motors should not be allowed to exceed 25 horsepower, especially north of the Current River bridge at Van Buren. Sixteen (16) respondents opposed the idea of allowing unlimited motor size south of the Big Spring landing. All respondents in both of these groups shared the view that motors over 25 horsepower served no legitimate purpose on park streams, arguing that motors of this size or smaller were adequate to negotiate the river or enjoy fishing. It was the general view of these respondents that larger motors posed a serious threat to the safety of other rivers users and diminished the recreational quality of the Riverways.

The National Park Service does not agree that such restrictive horsepower limits are necessary. The legislation establishing Ozark National Scenic Riverways requires the Service to provide for the "* * * use and enjoyment of the outdoor recreation resources thereof by the people of the United States * * *" (16 USC 460m). As noted earlier, some 40,000 boaters were recorded in 1989 on the waters of Ozark Riverways, demonstrating that boating is an established recreational use in the park. Registrations of boat motors in the counties adjacent to Ozark Riverways, conducted in 1984, indicated 19 percent exceeded 40 horsepower. One commenter in the boat sales business suggested that by 1990, this number had risen to around 40 percent. Concerns over safety and the protection of recreational values other than motorboating are addressed through the implementation of Ozark Riverways' River Use Management Plan, of which the regulation discussed here is but a part. Complementing the regulation is a system of river zoning, tied to canoe-density levels. By taking into account the channel and flow characteristics of different sections of the Current and Jacks Fork Rivers, and establishing maximum levels of canoe use appropriate to each section based on the respective demands of each river-using group, the safety and diversity of recreational opportunities can be reasonably assured. Therefore, the National Park Service has not changed the horsepower limitations as originally proposed.

One commenter supported the regulation based on a feeling that wave-action from large engines was damaging the river's banks and shallows, ruining spawning beds and causing a decline in fish populations. No definitive studies have been done in the park on the physical and biological wave action of motor operations, but so far no evidence indicates that motorboats are significantly affecting fishery reproduction.

Eleven (11) written comments and one petition opposed any restriction or further regulation on the size of boat motors. Specific arguments cited in support of this view included the asserted right to operate any-sized boat one could afford anywhere one might choose. The National Park Service believes it must limit the size of motors according to time of year and location to ensure public safety and protect the variety of recreational resources in the Riverways. Recognizing that some area boaters operate motors much larger than 40 horsepower, that portion of park waters below Big Spring landing will be available for their use and enjoyment. The overall width and depth of the channel on this section of river are at their maximum in the park, affording the best opportunity for boats with more powerful motors to safely navigate around obstacles and other users.

One commenter recommended the Riverways be reopened to larger engines after the floating season, i.e., the summer. While the bulk of canoe and tube floaters use Ozark National Scenic Riverways in the summer, canoeing in particular occurs in all months of the year. Moreover, other activities favor other seasons; streamside fishing in the upper reaches of the Current River is heaviest in the early spring, while canoeing on the upper Jacks Fork is rarely possible much beyond May or June. Seasonal changes in horsepower to minimize potential use-conflicts was addressed in the proposed regulation, with reduced horsepower in specific zones during periods of high use by canoeists. To eliminate restrictions on horsepower throughout the Riverways during the fall, winter and spring would risk compromising resource use by other recreationists and, again, introduce concerns about safety. Consequently, the seasonal limitations in the proposed regulations have been left unchanged in these final regulations.

Several commenters expressed the view that added law enforcement would preclude the need for a regulation, and that such enforcement should be largely directed toward canoeists and tube floaters. Although some violations of park rules may be symptomatic of user conflicts, the two are not synonymous. The regulation is intended to ensure the enjoyment of the park's recreational resources; while additional law enforcement might further public safety, it cannot guarantee the diversity of recreational opportunities.

After reviewing all comments, the National Park Service has determined that the regulation as proposed represents a reasonable balance of use

and resource protection for all concerned. Therefore, the regulations are published as final without change.

Drafting Information

The authors of this regulation were Arthur L. Sullivan, Superintendent, and Tom Graham, Chief Ranger, both of Ozark National Scenic Riverways.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332) the Service prepared an Environmental Assessment and Draft River Use Management Plan in November, 1985. Public input was provided during a series of public hearings and workshops. Extensive public comments, both oral and written, was received regarding the matter of motorized vessel horsepower limitations and zoning. The Service has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 ((46 FR 13193); Feb. 19, 1981). In accordance with the Regulatory Flexibility Act (Pub. L. 96-511), which became effective January 1, 1981, the Service has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities, nor does it require the preparation of a regulatory analysis.

List of Subjects in 36 CFR Part 7

National parks; Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Ch. I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 462(KK); Section 7.69 also issued under D.C. Code 8-137 (1981;) and D.C. Code 40-721 (1981).

2. Section 7.83 is amended by revising paragraph (a) to read as follows:

§ 7.83 Ozark National Scenic Riverways.

(a) *Restrictions for motorized vessels.* (1) On waters situated within the boundaries of Ozark National Scenic Riverways, the use of a motorized vessel is limited to a vessel equipped with an outboard motor only.

(2) For the purposes of this section, horsepower ratings on a particular motor will be based upon the prevailing industry standard of power output at the propeller shaft as established by the manufacturer.

(3) The use of a motorized vessel is allowed as follows:

(i) Above the Big Spring landing on the Current River and below Alley Spring on the Jacks Fork River with an outboard motor not to exceed 40 horsepower.

(ii) Above Round Spring on the Current River and above Alley Spring on the Jacks Fork River with an outboard motor not to exceed 25 horsepower.

(iii) Above Akers Ferry on the Current River from May 1 to September 15 with an outboard motor not to exceed 10 horsepower.

(iv) Above Bay Creek on the Jacks Fork River from March 1 to the Saturday before Memorial Day with an outboard motor not to exceed 10 horsepower.

(4) Operating a motorized vessel other than as allowed in § 7.83(a) is prohibited.

* * * * *

Dated: November 29, 1990.

Constance B. Harriman,

Assistant Secretary for Fish and Wildlife and Parks.

Note: This document was received by the Office of the Federal Register on June 28, 1991.

[FR Doc. 91-15863 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 442

[HSQ-189-F]

Medicaid Program; Correction and Reduction Plans for Intermediate Care Facilities for the Mentally Retarded

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the portions of the Medicaid regulations under which an intermediate care facility for the mentally retarded (ICF/MR) with substantial deficiencies that did not pose an immediate jeopardy to the health and safety of clients could continue participation in the Medicaid program. These regulations gave State Medicaid agencies the option of submitting written plans to either correct deficiencies or permanently reduce the number of beds in the certified portion of the facility.

This rule removes all requirements for submitting, approving, and monitoring correction plans for ICFs/MR. The requirements for submitting and approving correction plans are being removed because the time limit for submission of these plans has passed. The provisions for monitoring correction plans are being removed because there are no remaining facilities for which these provisions apply.

This final rule also removes requirements for submitting and approving reduction plans for ICFs/MR because the time limit for submitting these plans has passed. It retains and updates the requirements for monitoring and compliance that apply to those ICFs/MR for which reduction plans were approved by January 1, 1990.

EFFECTIVE DATE: The regulations are effective August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Margaret Sparr (301) 966-6832.

SUPPLEMENTARY INFORMATION:

I. Background

The intermediate care facilities for the mentally retarded (ICF/MR) program was established when the intermediate care program was transferred from title XI to title XIX in 1972 by Public Law 92-223. This legislation enacted section 1905(d) of the Social Security Act (the Act) permitting Medicaid coverage for services furnished by ICFs/MR. The primary purpose of ICFs/MR is to furnish health and rehabilitative services for individuals with mental retardation and other related conditions.

ICFs/MR participate in the Medicaid program under provider agreements with State Medicaid agencies. To enter into a provider agreement, an ICF/MR must be certified by a State survey agency as complying with standards set forth in 42 CFR part 442, subpart C. Facilities are surveyed at least annually by State survey agencies to ascertain their continued compliance with these requirements. Section 1910(b) of the Act authorizes the Secretary to conduct validation (direct Federal) surveys to determine the correctness of Medicaid certification actions taken by the designated State survey agency. In addition, if the Secretary finds that an ICF/MR substantially fails to meet the requirements of participation in the Medicaid program, the Secretary may terminate the ICF/MR's participation in the Medicaid program.

Section 1910(b)(2) of the Act sets forth the appeals procedures available when we terminate a facility's participation in the program. Under that provision, ICFs/MR have a right to a full evidentiary

hearing before the effective date of termination of the provider agreement unless the Secretary makes a written determination that the facility's deficiencies pose an immediate and serious threat to the clients.

During the early days of the program, in an effort to promote the correction of all deficiencies without excluding ICFs/MR from the Medicaid program, State Medicaid agencies were given options to submit to the Secretary written plans to either make the corrections or reduce permanently the number of beds in certified units. HCFA extended the deadlines for correcting deficient Life Safety Code and living, dining and therapy area physical plant requirements several times. The last extension (published as §§ 442.112 and 442.113) enabled ICFs/MR which had earlier failed to ask for an extension and had completed at least 25 percent of their original correction plans to receive an extension for the completion of their plans to July 18, 1982.

New criteria permitting correction and reduction plans were included in The Consolidated Budget Reconciliation Act of 1985 (Pub. L. 99-272) enacted on April 6, 1986. Section 9516(a) of Public Law 99-272 amended title XIX of the Act by adding section 1919. Section 1919 of the Act provided State Medicaid agencies options under which ICFs/MR that were found by the Secretary to have substantial deficiencies only in physical plant and staffing that did not pose an immediate threat to clients' health and safety could remedy those deficiencies. A State Medicaid agency could submit written plans to the Secretary either to (1) make all necessary staff and physical plant corrections and correct all other minor deficiencies as well, within 6 months of the approval date of the plan, or (2) reduce permanently the number of beds in certified units within 36 months of the approval date of the plan. Section 1919 of the Act also set forth requirements for approving and monitoring correction and reduction plans including actions to be taken if an ICF/MR failed to meet the plan requirements.

In accordance with section 9516(b)(1) or Public Law 99-272, the requirements for correction and reduction plans were effective on the date of enactment of Public Law 99-272 (that is, April 7, 1986). The provisions applied only to specific plans approved by the Secretary before April 7, 1989. To implement Public Law 99-272, we published a proposed rule on July 25, 1986 (51 FR 26718) and a final rule on January 25, 1988 (53 FR 1984). The Omnibus Budget and Reconciliation Act of 1987 (Pub. L. 100-203 enacted on December 22, 1987) redesignated section 1919 of the Act as section 1922.

The criteria permitting the submission of correction and reduction plans set forth in Public Law 99-272 were expanded as part of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647, enacted on November 10, 1988). Section 8433 of Public Law 100-647 revised section 1922 of the Act to permit States the option of submitting correction or reduction plans for ICFs/MR with substantial deficiencies in any area, including failure to provide active treatment, as long as the deficiencies did not pose an immediate threat to the health and safety of the clients. The approval date for correction and reduction plans was extended to January 1, 1990.

II. Provisions of This Final Rule

This final rule deletes expired provisions permitting the submission of correction and reduction plans and retains the requirements for monitoring and compliance of reduction plans still in effect.

Section 442.105(e), the last sentence of § 442.110(a), § 442.112, and § 442.113 are being removed because these provisions applied to plans correcting Life Safety Code and living/dining/therapy are deficiencies. These plans were required to have been completed by July 18, 1982 and, therefore, these regulations are no longer of any effect.

Sections 442.114, 442.115 and parts of § 442.116 are being removed because the Secretary's approval authority for section 1922 correction and reduction plans expired on January 1, 1990, as a result of section 8433 of Public Law 100-647.

The portions of § 442.116 regarding the monitoring and compliance of reduction plans still in effect are being retained and updated to include the provisions set forth in section 8433 of Public Law 100-647.

III. Waiver of Notice of Proposed Rulemaking

We ordinarily publish general notice of proposed rulemaking in the **Federal Register** and invite prior public comment on the proposed rule. The rule includes a reference to the legal authority under which it is proposed, and the terms and substance of the proposed rule or a description of the subjects and issues involved. However, this procedure can be waived when an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and its reasons in the rule issued.

In this final rule, we are deleting or revising regulations either because they are no longer of any legal effect or because they need to be conformed to statutory changes. In the first category, are those regulations governing the correction of deficiencies in ICFs/MR that have had no applicability since July 18, 1982, the last date on which affected facilities could have attempted to achieve compliance under the terms of those regulations. In the second category, are those regulations implementing section 1922 of the Act which no longer offer the opportunity for the submission and approval of either correction or reduction plans since those options have been eliminated by the Secretary's ability to approve such plans after January 1, 1990. Also in the second category, is the technical revision to the regulations necessitated by Public Law 100-647 that expanded the ability of correction and reduction plans to facilities having substantial deficiencies in areas other than physical plant and staffing. With respect to none of these changes do we have any discretion.

Accordingly, we believe that it would be impracticable, unnecessary, and contrary to the public interest to publish a proposed rule and solicit comments on these kinds of changes to the regulations. We, therefore, find good cause to waive notice of proposed rulemaking.

IV. Information Collection Requirements

These final regulations do not impose information collection and recordkeeping requirements. Consequently, they need not be reviewed by the Office of Management and Budget (OMB) under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

V. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any rule that meets one of the E.O. 12291 criteria for a "major rule": that is, a rule likely to result in—

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

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We published an initial regulatory impact statement in the proposed rule (51 FR 26723) on July 25, 1986 and a final statement in the final rule on January 25, 1988 (53 FR 1992). These statements addressed the impact that the regulation would have on entities. Since this final rule merely deletes obsolete requirements and makes only editorial changes to the remaining requirements, there is no impact on entities beyond that previously addressed.

This final rule does not meet the $100 million criterion nor does it meet the other E.O. 12291 criteria. Therefore, this final rule is not a major rule under E.O. 12291, and a regulatory impact analysis is not required.

For similar reasons, we are not preparing analyses for either the RFA or section 11002(b) of the Act. We have determined, and the Secretary certifies, that this final rule will not result in a significant economic impact on a substantial number of small entities and will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

List of Subjects in 42 CFR Part 442

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, 42 CFR part 442, subpart C is amended as follows:

PART 442—STANDARDS FOR PAYMENT FOR NURSING FACILITY AND INTERMEDIATE CARE FACILITY SERVICES

1. The authority citation for part 442 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

§ 442.105 [Amended]

2. In § 442.105, remove paragraph (e).

§ 442.110 [Amended]

3. In § 442.110(a), remove the last sentence "However, NFs with deficiencies that may require more than 12 months to correct may be certified under § 442.112."

§§ 442.112–442.115 [Removed]

4. Sections 442.112 through 442.115 are removed.

5. Section 442.116 is revised to read as follows:

§ 442.116 Reduction plans for ICFs/MR

(a) *Basis and scope.* Under section 1922 of the Act, a Medicaid agency could have chosen to submit reduction plans for ICFs/MR that were found to have substantial deficiencies that did not pose an immediate threat to the health and safety of its clients. States that elected to submit reduction plans must reduce permanently the number of beds in certified units and correct deficiencies within 36 months of the approval date of the reduction plan. The section 1922 requirements apply to reduction plans that HCFA approved by January 1, 1990.

(b) *Failure to meet requirements.* If, at the conclusion of any 6-month period of the reduction plan, HCFA determines that the Medicaid agency has substantially failed to meet the requirements of the reduction plan, HCFA proceeds with one of the following actions:

(1) Termination of the ICF/MR's participation in the Medicaid program in accordance with section 1910(b) of the Act.

(2) Disallowance of FFP equal to 5 percent of the cost of care for all eligible clients for each month for which the agency failed to meet the requirements despite good faith efforts it may have made.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: April 9, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: May 9, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-15899 Filed 7-3-91; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 94

[PR Docket No. 90-260; FCC 91-178]

Elimination of Grandfathering Provisions Applicable to Licensees on MAS Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule updates and clarifies the grandfathering provisions affecting licensees of Multiple Address Systems (MAS). These provisions have been modified to enhance our effective management of the spectrum by requiring many MAS licensees to adhere to current bandwidth and channelization standards.

DATES: August 5, 1991.

FOR FURTHER INFORMATION CONTACT: Maria Strong, Rules Branch, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 90-260, FCC 91-178, adopted June 11, 1991 and released June 27, 1991. The full text of this Report and Order is available for inspection during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036, telephone (202) 452-1422.

Summary of Report and Order

The FCC published a notice of proposed rule making on the elimination of the MAS grandfathering provisions in the **Federal Register** on May 31, 1990 [55 FR 22038]. As demand for MAS frequencies has increased, the Commission has imposed increasingly stringent technical standards to promote the efficient use of MAS spectrum. The Notice proposed to require most licensees on the 900 MHz MAS frequencies to comply with current channelization and bandwidth requirements within a specified timeframe. Three public comments were received, and all were supportive of the Notice. We adopt the proposals in the Notice that affect groups of MAS licensees authorized before January 1, 1981. One commenter suggested an optional approach, creating a spectrum review transition plan if other groups of MAS licensees were required to comply with recent technical standards. In the

final rules, we modify one of the Notice's proposals to require MAS licensees authorized after January 1, 1981 but on or before May 11, 1988, to justify their use of spectrum beyond the current 12.5 kHz bandwidth standard, beginning at their first renewal after June 1, 1996.

Final Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, a final regulatory flexibility analysis has been prepared and is available for public review as part of the full text of this decision. The text may been viewed at the Commission's offices or obtained from its copy contractor.

Paperwork Reduction Act Statement

As required by the Paperwork Reduction Act of 1980, we certify that the rule amendments adopted in this proceeding contain no new or modified form, information collection or recordkeeping, labeling, disclosure, or record retention requirements. Some licensees will be required to modify their licenses to operate on different frequencies.

List of Subjects in 47 CFR Part 94

Communications equipment, Technical standards.

Amendatory Text

47 CFR part 94 is amended as follows:

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. The authority citation for part 94 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. 47 CFR 94.65 introductory paragraph and paragraph (a)(1) are revised to read as follows:

§ 94.65 Frequencies.

Frequencies normally available for assignment in this service are set forth with applicable limitations in the following tables:

(a) 928–960 MHz—(1) *Multiple address system frequencies.* Multiple address system (MAS) frequencies are available for the point-to-multipoint transmission of a licensee's products or services, excluding video entertainment material, to a licensee's customer or for its own internal communications. The paired frequencies listed in this section shall be used for two-way interrogate/response communications between a master station and remote stations. Each master station operating on these frequencies is required to serve a minimum of four separate active remote stations. Ancillary one-way communications on paired frequencies are permitted on a case-by-case basis. Ancillary communications between interrelated master stations are permitted on a secondary basis. The normal channel bandwidth assigned will be 12.5 kHz.

Upon adequate justification, however, channels with bandwidths up to 50 kHz may be authorized. Tables 2, 4, and 6 list frequencies with 25 kHz bandwidth channels. When licensed for a larger bandwidth, the system still is required to use equipment which meets the ± 0.00015 percent tolerance requirement. (*See* § 94.67). Systems licensed for frequencies in these MAS bands prior to August 1, 1975 may continue to operate as authorized until June 11, 1996 at which time they must comply with current MAS operations based on the 12.5 kHz channelization set forth in this paragraph. Systems licensed between August 1, 1975 and January 1, 1981, inclusive, were permitted to operate as authorized until January 1, 1991, at which time they were required to comply with the grandfathered 25 kHz standard bandwidth and channelization requirements set forth in this paragraph. Systems licensed between August 1, 1975 and January 1, 1981, inclusive, were permitted to operate as authorized until January 1, 1991, at which time they were required to comply with the grandfathered 25 kHz standard bandwidth and channelization requirements set forth in this paragraph. Systems originally licensed after January 1, 1981, and on or before May 11, 1988 with bandwidths of 25 kHz and above must justify their need for spectrum in excess of the 12.5 kHz standard at their first renewal period on or after June 1, 1996.

* * * * *

3. 47 CFR 94.92 introductory paragraph is revised to read as follows:

§ 94.92 Technical standards for stations authorized prior to July 1, 1976.

Except as otherwise required by § 94.65(a)(1), the technical standards indicated in the table in this section apply to private microwave systems using the frequency bands above 952 MHz listed in the table and which were authorized prior to July 1, 1976, but after July 20, 1961. These standards shall not be applicable to transmitting equipment, including antennas, which was authorized to be operated on these frequencies prior to July 20, 1961, or for which an authorization was issued based on an application filed with the Commission prior to July 20, 1961.

* * * * *

Federal Communications Commission.

William F. Caton,

Assistant Secretary.

[FR Doc. 91–15745 Filed 7–3–91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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: Notice of closure.

SUMMARY: The Director of the NMFS Alaska Region has determined that the 1991 secondary allowance of Pacific halibut for the "domestic annual processing (DAP) other fishery" has been reached. The Secretary of Commerce (Secretary) is prohibiting directed fishing in the entire Bering Sea and Aleutian Islands Area (BSAI) for: (A) pollock by vessels using trawl gear other than pelagic trawl gear and (B) Pacific cod by vessels using all trawl gear. This action is necessary to prevent the 1991 secondary allowance of halibut to the "DAP other fishery" from being exceeded. The intent of this action is to ensure optimum use of groundfish while conserving Pacific halibut stocks.

DATES: This closure is effective 12 noon Alaska local time (A.l.t.), July 8, 1991, through the remainder of 1991.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and was implemented by regulations appearing at 50 CFR 611.93 and parts 620 and 675.

Amendment 16 to the FMP (56 FR 2700; January 24, 1991) established prohibited species catch (PSC) limits of red king crab and *C. bairdi* Tanner crab in specific zones of the Bering Sea subarea (BS), and for Pacific halibut throughout the BSAI area. Under § 675.21(a)(5), the secondary PSC limit of

Pacific halibut caught while conducting any trawl fishery for groundfish in the BSAI is 5,333 metric tons (mt). Further, § 675.21(b)(1) provides that the PSC limit of Pacific halibut be further apportioned into bycatch allowances, one of which is assigned to the "DAP other fishery." The final notice of initial specifications of groundfish for the BSAI for 1991 (56 FR 6290; February 15, 1991) established the annual 1991 secondary Pacific halibut allowance for the "DAP other fishery" at 3,233 mt.

The Director has determined that U.S. fishing vessels using trawl gear will have caught the secondary PSC bycatch allowance of Pacific halibut in the BSAI while participating in the "DAP other fishery" by July 8, 1991. Therefore, under § 675.21(c)(2)(iv), the Secretary is publishing this notice in the **Federal Register** closing the BSAI from 12:00 noon, A.l.t., July 8, 1991, through the remainder of the year to directed fishing for:

(A) Pollock by trawl vessels using other than pelagic trawl gear; and (B) Pacific cod by vessels using any trawl gear.

In accordance with § 675.20(h)(1), after this closure, vessels using trawl gear other than pelagic trawl gear may not retain at any time during a trip an amount of pollock equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip. Additionally, vessels using all trawl gear may not retain at any time during a trip an amount of Pacific cod equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip.

Classification

This action is taken under § 675.21 and complies with Executive Order 12291.

List of Subjects in 50 CFR 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: June 28, 1991.

David S. Crestin,

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

[FR Doc. 91-15869 Filed 6-28-91; 4:09 p.m.]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 129
Friday, July 5, 1991

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 842 and 843

RIN 3206-AE02

Federal Employees Retirement System—Basic Annuity; Death Benefits and Employee Refunds

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing rules to amend portions of the Federal Employees Retirement System (FERS) interim regulations governing the so-called "Minimum Retirement Age (MRA) plus 10" and the "early deferred" retirement provisions. The proposed rules are intended to improve the administration of FERS in cases where individuals are reemployed after separating with potential entitlement under those provisions. The proposed rules also make technical corrections and conforming changes to the rules governing service credit deposits and survivor elections. Finally, OPM is proposing to amend the rules concerning the basic employee death benefit. The new rule would permit a widow(er) who had elected to take the basic employee death benefit in installments to take the present value of the remaining payments in a single payment.

DATES: Comments must be received on or before September 3, 1991.

ADDRESSES: Send comments to Andrea Minniear Farran, Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert M. Rosenblatt, (202) 606-0299.

SUPPLEMENTARY INFORMATION: Under a provision of the Federal Employees Retirement System (FERS) known as "MRA plus 10" (5 U.S.C. 8412(g)), employees who separate from service after attaining the minimum retirement age specified in 5 U.S.C. 8412(h) (currently age 55) and completing 10 years of creditable service (including at least 5 years of civilian service) are eligible for an immediate annuity. Except as explained in § 842.404 ("Reductions in basic annuity"), the annuity is reduced by 5/12 of 1 percent for each month the retiree is under age 62 when the annuity commences. To lessen or eliminate this age reduction, separated employees eligible for an immediate MRA plus 10 annuity may elect to postpone the annuity commencing date. Similarly, employees eligible under the so-called "early deferred" provision—those who complete 10 years of service and separate before attaining the minimum retirement age—can begin receiving a reduced annuity when the attain that age, or may choose to designate a later commencing date (5 U.S.C. 8413(b)).

The proposed addition of paragraph (d) to § 842.204, and paragraph (c) to § 842.212, will clarify the status of employees who have filed applications either for the MRA plus 10 or early deferred provisions, and have been reemployed before those benefits commenced. These individuals are not annitants, and are not, therefore, subject to the provisions of 5 U.S.C. 8468, Annuities and pay on reemployment.

They are not annuitants because they have not satisfied the conditions prescribed in the definition of "annuitant," found in the FERS law at 5 U.S.C. 8401(2). An annuitant is defined as a former employee or former Member of Congress who meets all requirements for title to an annuity and who "files claim" for that annuity. Filing a claim implies a demand for immediate payment, or at least a demand for the acknowledgement of a right to immediate payment. Under the MRA plus 10 or the early deferred provisions, however, the individual is allowed to specify a commencing date for the annuity. By specifying a future commencing date, the individual has deferred the demand for immediate payment and has, therefore, not perfected the filing of a claim.

The optional commencing date feature of these FERS benefits was intended to enhance flexibility for employee retirement planning. This is an important departure from the statutory design of CSRS where the commencing date of annuity is fixed and invariable after an individual separates from service after having met certain age and service requirements. The FERS design recognizes that the modern employee tends to change jobs—and even careers—more frequently. Under FERS, those who leave the Government after relatively short periods of service may wish to seek reemployment with the Government at some later date, or may simply wish to delay receipt of Federal retirement benefits while pursuing a career in the private sector.

It is reasonable to conclude, therefore, in view of the philosophy of the FERS law, that an applicant for either the MRA plus 10 or early deferred annuity who defers the commencing date of annuity does not have the status of an annuitant. When these individuals are reemployed in a covered position before their annuities commence, they have the same status as any other employee, and their retirement rights will be based on their age and total service (including service performed prior to the reemployment) when that reemployment ends.

A proposed change to § 842.212(b)(1) includes language that would prohibit the election of a retroactive postponed annuity commencing date, i.e., one that precedes the date the individual files the election. An individual may elect to have the annuity commence on either the first of the month following attainment of the MRA, or on a date following the date the election is filed, but not a date between those two points. This amendment would make the rule for early deferred retirees consistent with the rule for persons retiring under the MRA plus 10 provision.

The amendment to § 842.305(a) is necessary to align the time limit for service credit deposits with the proposed time limit for survivor elections under subpart F. The time limit is 30 days after the first regular monthly payment.

The amendment to § 842.305(e)(3) would correct an error concerning interest computations on FERS deposits. FERS law does not allow employees to make redeposits of refunds of FERS deductions. If a refund of CSRS deductions has been paid and the individual later becomes subject to FERS, the service is counted under FERS

rules, and a FERS deposit is required which is computed as if no deductions had been made for the service at issue. Accordingly, the reference to "date of refund" as a starting point for the interest computation in the current § 842.305(e)(3) is inappropriate. Interest on nondeduction service begins at the midpoint of the period of service in question. The other changes to the paragraph clarify the current language. They make no substantive change.

The amendments to subpart F eliminate the election confirmation procedure and substitute the CSRS rule for determining when survivor elections become final. This change was necessary because the procedure requiring the confirmation of most survivor elections before they are final has proven to be too cumbersome. The proposed procedures conform to our longstanding practice under CSRS. The corresponding CSRS regulations are codified at §§ 831.603, 831.609, and 831.611 of title 5, Code of Federal Regulations.

The surviving spouse of a deceased employee who qualifies for the "basic employee health benefit" described by § 843.309 may elect to take that benefit either in a lump sum or in 36 monthly installments. The proposed amendment to § 843.309 would ratify OPM's current practice of permitting a current spouse who elected to take the basic employee death benefit in installments to terminate the installment payments and take the present value of the remaining payments in a lump sum.

Executive Order 12291, Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Parts 842 and 843

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Law enforcement officers, Air Traffic controllers, Pensions, Retirement, Survivors.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM proposes to amend parts 842 and 843 of title 5, Code of Federal Regulations, as follows:

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

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

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

Subpart B—Eligibility

2. Section 842.204 is amended by revising paragraph (a)(1) and (c)(3), and by adding paragraph (d) to read as follows:

§ 842.204 Immediate voluntary retirement—basic age and service requirements.

(a) * * *

(1) Except as provided in paragraph (d) of this section, after attaining the minimum retirement age and completing 10 years of service; or

* * * * *

(c) * * *

(3) A postponed commencing date must be no later than the second day before the employee's 62nd birthday.

* * * * *

(d)(1) If an employee or Member separates from service after attaining the minimum retirement age and completing 10 years of service, but is reemployed before filing an application for retirement based on that separation, the individual may not elect an annuity commencing date that precedes separation from the reemployment service.

(2) In the case of an employee or Member who separates from service after attaining the minimum retirement age and completing 10 years of service, and is reemployed after filing an application for retirement based on that separation, that individual may not elect an annuity commencing date that precedes separation from the reemployment service if he or she is reemployed prior to a postponed commencing date elected under paragraph (c) of this section.

3. Section 842.212 is amended by revising paragraph (b)(1) and adding paragraph (c) to read as follows:

§ 842.212 Deferred retirement.

* * * * *

(b)(1) Except as provided in paragraphs (b)(3) and (c) of this section, an employee or Member who has not attained the minimum retirement age, and who, after completing 10 years of service, is separated or transferred to a position in which the individual is no longer covered by FERS, is entitled to a deferred annuity commencing—

(i) The first day of the month following the date on which the individual attains the minimum retirement age or, if later,

(ii) A date the individual designates that follows the date on which the designation is filed.

* * * * *

(c)(1) If an employee or Member separates from service after completing 10 years of service but before attaining the minimum retirement age, and is reemployed before filing an application for retirement based on that separation, that individual may not elect an annuity commencing date that precedes separation from the reemployment service.

(2) In the case of an employee or Member who separates from service after completing 10 years of service but before attaining the minimum retirement age, and is reemployed after filing an application for retirement based on that separation, that individual may not elect an annuity commencing date that precedes separation from the reemployment service if he or she is reemployed prior to a postponed commencing date elected under paragraph (b) of this section.

* * * * *

Subpart C—Credit for Service

4. Section 842.305 is amended by revising paragraphs (a) and (e)(3) to read as follows:

§ 842.305 Deposits for Civilian Service.

(a) Eligibility—current and former employees or Members. An employee or Member subject to FERS and a former employee or Member who is entitled to an annuity may make a deposit for civilian service described under paragraphs (a)(2) and (a)(3) of § 842.304 upon application to OPM in a form prescribed by OPM. A deposit for

civilian service cannot be made later than 30 days after the first regular monthly payment as defined in § 842.602.

* * * * *

(e) * * *

(3) Interest is computed from the midpoint of each service period included in the computation. The interest accrues annually on the outstanding portion, and is compounded annually, until the portion is deposited. Interest is not charged after the commencing date of annuity or for a period of separation from the service that began before October 1, 1956.

* * * * *

Subpart F—Survivor Elections

5. Section 842.602 is amended by adding a new definition in alphabetical order to read as follows:

§ 842.602 Definitions.

* * * * *

"First regular monthly payment" means the first annuity check payable on a recurring basis (other than an estimated payment or an adjustment check) after OPM has initially adjudicated the regular rate of annuity payable under FERS and has paid the annuity accrued since the time of retirement. The "first regular monthly payment" is generally preceded by estimated payments before the claim can be adjudicated and by an adjustment check (including the difference between the estimated rate and the initially adjudicated rate).

* * * * *

6. Section 842.608 is revised to read as follows:

§ 842.608 Changes of election before final adjudication.

An employee or Member may name a new survivor or change his or her election of type of annuity if, not later than 30 days after the date of the first regular monthly payment, the named survivor dies or the employee or Member files with OPM a new written election. All required evidence of spousal consent or justification for waiver of spousal consent, if applicable, must accompany any new written election under this section.

§ 846.609 [Amended]

7. Section 842.609 is removed.

8. Section 842.610 is amended by revising paragraph (a) to read as follows:

§ 642.610 Changes of election after final adjudication.

(a) Except as provided in § 842.611, § 842.612, or paragraph (b) of this section, an employee or Member may not revoke or change the election or name another survivor later than 30 days after the date of the first regular monthly payment.

* * * * *

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

9. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; §§ 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; § 843.309 also issued under 5 U.S.C. 8442; § 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

10. Section 843.309 is amended by adding paragraph (c) to read as follows:

§ 843.309 Basic Employee Death Benefit.

* * * * *

(c)(1)(i) A current spouse who has elected to receive the basic employee death benefit in 36 installments under paragraph (b)(2) of this section may elect to receive the remaining portion of the basic employee death benefit in one payment.

(ii) The election to receive the remaining portion of the basic employee death benefit in one payment must be in writing and signed by the current spouse.

(iii) The election to receive the remaining portion of the basic employee death benefit in one payment is irrevocable when OPM authorizes the payment.

(2) Upon the death of a current spouse who was receiving the basic employee death benefit in 36 installments under paragraph (b)(2) of this section, the remaining portion of the employee death benefit will be paid as one payment to the estate of the current spouse.

(3) As used in this section, "remaining portion of the basic employee death benefit" means the amount of the basic employee death benefit computed under paragraph (a) of this section that has not been paid. The amount is the remaining principal computed based on an amortization schedule with the initial principal equal to the amount computed under paragraph (a) of this section and the interest rate based on the applicable factor under paragraph (b)(2) of this section.

[FR Doc. 91-15998 Filed 7-3-91; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1434-91]

Employment-Based Immigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule implements provisions of section 121 of the Immigration Act of 1990, Public Law 101-649, November 29, 1990, by providing petitioning procedures for employment-based immigrants under sections 203(b) (1) through (5) of the Immigration and Nationality Act (Act). It will also implement new immigrant classifications and requirements established by Public Law 101-649, and clarify, for the general public and businesses, requirements for classification and admission for these new immigrant classifications. This rule is necessary to help American businesses hire highly skilled, specially trained personnel to fill increasingly sophisticated jobs for which domestic personnel cannot be found.

DATES: Written comments must be submitted on or before August 5, 1991.

ADDRESSES: Please submit written comments, in triplicate, to Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., room 5304, Washington, DC 20536. To ensure proper handling, please reference the INS number 1434-91 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Edward H. Skerrett, Senior Immigration Examiner, or Carla J. Hengerer, Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., room 7122, Washington, DC 20536, telephone (202) 514-3946.

SUPPLEMENTARY INFORMATION: The employment-based immigration provisions of the Immigration Act of 1990, Public Law 101-649, are based on American businesses' need for highly skilled, specially trained personnel to fill increasingly sophisticated jobs for which domestic personnel cannot be found, and an increasing skills gap in current and projected United States labor pools.

In writing the employment-based immigrant classifications of section

203(b) of the Act, as amended by section 121 of Public Law 101–649, Congress took the current third and sixth preference classifications as a basis and created five new classifications as follows:

1. Priority workers.
   A. Aliens with extraordinary ability;
   B. Outstanding professors and researchers; or
   C. Certain multinational executives and managers.
2. Members of the professions holding advanced degrees and aliens of exceptional ability.
3. Skilled workers, professionals, and other workers.
4. Certain special immigrants.
5. Employment creation immigrants.

This regulation is concerned with priority workers; members of the professions holding advanced degrees and aliens of exceptional ability; skilled workers, professionals, and other workers; special immigrant religious workers; and employment creation immigrants.

General

Any United States employer desiring and intending to employ an alien may file a petition for classification of the alien as an outstanding professor or researcher, multinational executive or manager, skilled worker, professional, or other worker. An alien, or any person in the alien's behalf, may file a petition for classification as an alien of extraordinary ability, or as a religious worker. An alien may file a petition for classification as an employment creation immigrant (investor).

This regulation requires that petitions be filed with the Service Center having jurisdiction over the intended place of employment in the United States, or, in the case of investors, the location of the investment in the United States. The regulation does not provide for concurrent filing of a petition with an application for permanent residence (Form I–485).

The priority date of an employment-based petition filed for classification under the provisions of Public Law 101–649 will be the date the petition is properly filed with the Service. The Service proposes this change because of the expanded number of employment-based classifications which do not require labor certifications, because of the institution of the Department of Labor's Labor Market Information Pilot Program, and because of the language contained in section 203(b)(3) of the Act, as amended by Public Law 101–649, that skilled workers and other workers must be capable, at the time of petitioning, of performing either skilled or unskilled labor. Furthermore, the Service over the years has experienced an increased workload caused by the effects that promotions, transfers, and changes of employers for alien employees have on approved petitions and priority dates.

Section 162(c)(1) of Public Law 101–649, however, provides for priority date retention in the cases of third or sixth preference petitions filed before October 1, 1991, provided a petition under one of the first three employment-based classifications is filed before October 1, 1993. This regulation expands on this procedure by providing for application of the current priority date rules in a case where a labor certification was issued before October 1, 1991, but a petition was not filed, or in a case where a labor certification application was pending on October 1, 1991. This procedure would only take effect, however, if an employment-based petition under one of the new classifications is filed before October 1, 1993.

Current regulations do not contain the requirement that, in a third or sixth preference case, a prospective United States employer demonstrate the ability to pay the wage offered the alien. However, the requirement of demonstrating the ability to pay the wage is based currently on case law, and these regulations will reflect that requirement. In line with the requirement that aliens be capable of performing the job at the time of filing the petition, the ability to pay the wage must be demonstrated as of that date.

Aliens With Extraordinary Ability

This classification is reserved for aliens with extraordinary ability in the sciences, arts, education, business, or athletics. The alien must have sustained national or international acclaim, and his/her accomplishments must be recognized in the field of endeavor through extensive documentation. The alien must be seeking to enter the United States to continue work in the field, and his/her entry must substantially benefit prospectively the United States.

It should be noted that the language of this classification is similar to language relating to the new O–1 nonimmigrant classification; however, this classification relates to an extraordinary alien who is seeking to immigrate permanently to the United States whereas the O–1 classification relates to an alien whose stay in the United States will be limited in duration.

Under current law, the Service has adjudicated petitions for third preference classification and applications for Schedule A/Group II labor certification for aliens with "exceptional ability" in the sciences or arts. Case law has defined "exceptional ability" to be something more than is usual, ordinary, or common in the field of endeavor. The legislative history of this new classification in the Report of the Committee on the Judiciary for H.R. 4300 indicates that Congress intended a higher standard for aliens of extraordinary ability by indicating that it was meant "for that small percentage of aliens who have risen to the very top of their field of endeavor." Furthermore, the new second classification of employment-based immigrants includes aliens of exceptional ability in the sciences, arts, of business, implying a lower standard for this latter group.

The intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required under the current law for third preference or, under the new law, for aliens of exceptional ability in the second employment-based classification. These documentary requirements also reflect the inclusion in the classification of aliens of extraordinary ability in the performing arts, business, and athletics by including criteria reflective of the achievement of extraordinary ability in these fields.

The alien of extraordinary ability is not required to have either a labor certification or an offer of employment in the United States. Furthermore, the extraordinary alien, or anyone in his/her behalf, may file the petition for this classification. This is distinguished from the O–1 nonimmigrant classification where a petition must be filed by an importing employer. Nevertheless, the immigrant of extraordinary ability must be seeking to enter the United States to continue work in the field of extraordinary ability. To establish this intent, the regulations require that the petitioner present letter(s) from prospective employer(s), contracts, or at least a detailed plan on how the alien intends to continue work in the United States.

The requirement that the alien's entry substantially benefit prospectively the United States indicates that Congress does not intend for these aliens to immigrate to the United States and remain idle.

Outstanding Professors and Researchers

The second group of priority employment-based immigrants consists of professors and researchers who are recognized internationally as being

outstanding in specific academic areas. Such an alien must have at least three years of experience in teaching or research in the academic area. The professor or researcher must be seeking to enter the United States for a tenured or tenure-track teaching position or a comparable research position with a United States university or institution of higher education. Alternatively, a researcher may seek entry to work in a comparable research position with a department, division, or institute of a private or non-profit employer. The private or non-profit employer must employ at least three persons full-time in research activities and must have demonstrated accomplishments in the academic area.

Outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. This regulation provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding.

Public Law 101–649 requires that the outstanding professor or researcher have at least three years of experience in teaching or research. The Service recognizes that the academic community places a high value on research and that university professors are often engaged in extensive research projects in combination with teaching duties. The regulations, therefore, reflect that the required three years of experience can be met through a combination of teaching and/or research. However, it is the Service's position that research accomplished in order to fulfill a degree requirement, such as a dissertation, should not count toward the three-year experience requirement.

The portion of the statute relating to employment after entry indicates that the alien will be coming to a tenured or tenure-track teaching position, a comparable research position with a university or institution of higher learning, or a comparable research position with a private employer. The Service believes the word comparable, used for researchers in universities or institutions of higher education, means a tenured or tenure-track position. On the other hand, private or non-profit employers do not ordinarily give tenure to employees. A comparable research position with a private employer, therefore, would be one in which the job description and duties are comparable to those of a researcher at a university or institution of higher education.

Certain Multinational Executives and Managers

Multinational executives and managers are those individuals who in the three years preceding the filing of petitions for this classification have been employed for at least one year by a firm or corporation, or other legal entity, or an affiliate or subsidiary thereof, and who seek to enter the United States to continue to render services to the same employer or to a subsidiary or affiliate thereof, in a capacity that is managerial or executive.

In the legislative history of this classification in the Report on H.R. 4300 by the House Committee on the Judiciary, Congress noted "the need of multinational business to transfer key personnel around the world as nonimmigrants is parallel in this category to allow a basis upon which these individuals may immigrate." The language of the statute, however, is specific in limiting this provision to only those executives and managers who have previously worked for the business entity, or an affiliate or subsidiary of that entity, and are coming to the United States to work for the same entity, or its affiliate or subsidiary. This regulation reflects the statute and follows criteria long in place for the adjudication of petitions for nonimmigrant intra-company transferees, and immigrant petitions under current Schedule A/Group IV, for such managers and executives.

Keeping in mind that Congress stressed the need of business to transfer key personnel from around the world, and paralleling current regulations, this regulation requires that the prior qualifying one year be outside the United States. Further paralleling the Department of Labor's current Schedule A/Group IV, the regulation requires that the qualifying year be in a managerial or executive capacity. The regulation also requires that the individual be coming to an existing business in the United States. This is based on a current Schedule A/Group IV requirement, and because this classification carries no conditional resident status which would be appropriate for participation in a speculative new business.

The Service does not feel that Congress intended that nonimmigrant managers or executives who have already been transferred to the United States should be excluded from this classification. Therefore, the regulation provides that an alien who has been a manager or executive for one year overseas, during the three years preceding admission as a nonimmigrant manager or executive for a qualifying entity, would qualify.

This regulation contains definitions applicable to multinational executives and managers. The definitions of "managerial capacity" and "executive capacity" are the same as those contained in section 101(a)(44) of the Act, as amended by section 123 of Public Law 101–649. The term "affiliate" includes certain international accounting firms as set forth in section 206 of Public Law 101–649. The term "multinational," for the purposes of this classification, shall mean that the qualifying entity, or its affiliate or subsidiary, conducts business in two or more countries, one of which is the United States.

Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability

This two-fold classification is available to aliens who are members of professions holding advanced degrees (or their equivalent), or to aliens who because of their exceptional ability in the sciences, arts, or business will substantially benefit prospectively the national economy, cultural or educational interests, or the welfare of the United States. The statute provides that the alien's services must be sought by a United States employer, and further provides that the requirement of a job offer may be waived in the national interest for aliens of exceptional ability. Possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or a license to practice, or certificate for a particular profession or occupation, shall not by itself be sufficient evidence of exceptional ability.

There is no mention in section 203(b)(2) of the Act that a labor certification is required for these aliens. However, section 601 of Public Law 101–649, amending section 212 of the Act (exclusion grounds) requires labor certification for section 203(a) (3) and (6) immigrants in section 212 (a)(5)(C) of the Act. (Section 162(e)(1)(A) of Pub. L. 101–649 changes the reference from current sections 203(a) (3) and (6) to new sections 203(b) (2) and (3).) The regulations will provide that this labor certification requirement may be met through presentation of a labor certification or through presentation of evidence that the alien's occupation is a shortage occupation in the Department of Labor's Labor Market Information Pilot Program.

In order to receive exemption from the job offer requirement, the regulations

provide that the petitioner must demonstrate that the alien's occupation is one where self-employment is common, or traditional, or an occupation in the Department of Labor's pilot program, and that the exemption would be in the national interest or welfare.

Any United States employer may file a petition for an alien in this classification. However, if a claim to exemption from the job offer requirement is made, the appropriate petitioner would be the alien or anyone in the alien's behalf.

The first group of aliens in this classification are members of the professions holding advanced degrees. Section 101(a)(32) of the Act contains examples of individuals whose occupations are deemed to be professions. This is not an exclusive list, and based on past immigration case law, the definition of *profession* in the regulations indicates that a profession is an occupation which requires at least a baccalaureate for job entry. However, this provision is available only to members of the professions holding advanced degrees or the equivalent. The regulations define an *advanced degree* as any degree above that of baccalaureate. The term *baccalaureate* means a bachelor's degree received from a college or university, or an equivalent degree.

This provision provides for equivalency to an advanced degree. The equivalent of an advanced degree, according to the Joint Explanatory Statement of the Committee of Conference, shall be "a bachelor's degree with at least five years progressive experience in the professions." The Service considers this combination to be the equivalent of a master's degree, a degree which the legislative history advises in the Report of the Senate Committee on the Judiciary is gained after "at least one academic year of graduate study." If a doctorate is customarily required for the profession, the regulations reflect that the alien must have the doctorate. Furthermore, the proposed rule does not provide a procedure to allow experience alone to substitute for either a baccalaureate or an advanced degree. All degrees will be judged by United States standards, but equivalent foreign degrees will be qualifying.

Aliens with exceptional ability will be held to a lower standard than first priority aliens of extraordinary ability. The definition of *exceptional ability* in this regulation is based on past immigration case law and implies a level of expertise above that ordinarily encountered in the sciences, arts, or business. As noted above, academic credentials, licensure, or other credentials alone will not demonstrate exceptional ability. The regulation, therefore, provides that for a showing of exceptional ability, the petitioner must demonstrate that the alien meets three of six criteria. The showing of prospective benefit to the United States is inherent in meeting these criteria.

Skilled Workers, Professionals, and Other Workers

The statute provides for visas to be issued to workers capable, at the time of petitioning, of performing skilled labor (requiring at least two years training or experience) for which qualified workers are not available in the United States; members of the professions who hold baccalaureate degrees; and other workers capable, at the time of petitioning, of performing unskilled labor for which qualified workers are not available in the United States.

Any United States employer may petition for these three types of workers. A labor certification or evidence that the alien's occupation is a shortage occupation in the Department of Labor's Labor Market Information Pilot Program is required with the petition. This requirement is found in section 212 (a)(5)(C) of the Act, as amended by section 601 of Public Law 101–649, and in the conforming amendment contained in section 162(e)(1)(A) of Public Law 101–649.

For classification as a skilled worker, the job offer on the labor certification, or pilot program application, must reflect that the job requires at least two years of training or experience. A job requiring less than two years of training or experience would fall into the unskilled classification. This regulation provides that all requirements of education, training, or experience for the alien must be documented by the petitioner.

For professionals, the statute is clear in requiring a baccalaureate degree. Although a foreign degree equivalent to a United States baccalaureate is qualifying, neither the statute nor the regulation provides for meeting the requirement of a baccalaureate degree through either a combination of education and experience, or experience alone. In short, the alien professional must possess a baccalaureate degree. In addition, the regulation requires that the petitioner demonstrate that a baccalaureate degree is the usual requirement for entry into the occupation.

Religious Workers

Section 203(b)(4) of the Act, as amended by section 121 of Public Law 101–649, allows for 10,000 visas for certain special immigrants to include religious workers. Of this number, however, not more than 5,000 visas may be made available to aliens entering to work in a professional capacity in a religious vocation or occupation, or to aliens entering to work in a religious vocation or occupation.

Such a religious worker must, for at least two years immediately preceding the time of application for admission, have been a member of a religious denomination having a bona fide non profit, religious organization in the United States. These aliens must be seeking to enter the United States solely for the purpose of carrying on the vocation of a minister of that religious denomination; before October 1, 1994, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation; or, before October 1, 1994, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation. Furthermore, the religious worker must have been carrying on such vocation of minister, professional work, or other work continuously for at least the two-year period immediately preceding the time of application for admission.

Based on past practice and practicality, to prevent abuse and to comply with Congressional intent, this regulation specifies that the qualifying two-year period of membership in the denomination, and work in the religious vocation or occupation, will be the two-year period which immediately precedes the date of filing the petition for this classification. The petition may be filed by the alien or anyone in the alien's behalf.

The legislative history of this provision in the Report of the House Committee on the Judiciary indicates that Congress intended that the essential elements of a religious organization remain those developed by existing case law. The regulations reflect this intent of Congress.

The Service uses past case law and the notes to 22 CFR 42.24 in the Department of State's Foreign Affairs Manual to define minister. The Service defines minister as an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion.

The term does not include a lay preacher not authorized to perform such duties.

To show that an individual is a religious professional, the regulation requires that the individual have at least a baccalaureate degree and that the religious organization in the United States demonstrate that the minimum of a baccalaureate degree is required for entry into the religious profession. For consistency with the other immigrant employment-based classifications, no combination of education and experience, or experience alone, will be allowed to substitute for a baccalaureate degree. Foreign degrees equivalent to a United States baccalaureate degree will be qualifying.

In the Report of the House Committee on the Judiciary, Congress noted that a religious vocation or occupation is one which relates to traditional religious functions. Janitors, maintenance workers, and clerks are not included. However, religious workers in a religious vocation (including, but not limited to nuns, monks, or religious brothers or sisters who take vows) often engage in such occupations and could qualify for this classification not by virtue of their occupation, but by virtue of their vocation. However, lay members of religious denominations so employed could not ordinarily be construed to be involved in traditional religious functions and would not qualify.

This regulation requires that the religious organization in the United States or the religious affiliate must submit the organization's tax-exempt certificate showing exemption from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986. This reference to section 501(c)(3) pertains only to that section as it relates to religious organizations, not to other tax-exempt organizations.

Employment Creation Immigrants

Section 203(b)(5) of the Act, as amended by section 121(a) of Public Law 101–649, contains a provision which allows for the issuance of immigrant visas to qualified aliens who will contribute to the economic growth of the United States by investing in United States businesses and creating needed employment opportunities.

Section 203(b)(5) authorizes that up to 10,000 visas shall be made available each fiscal year to alien entrepreneurs (along with their spouses and unmarried minor children) who have established new commercial enterprises in which they have invested or are actively in the process of investing. The new commercial enterprise may take any lawful business form and must both benefit the United States economy and create full-time employment for not fewer than 10 United States citizens, lawful permanent residents, or other immigrants lawfully authorized to be employed.

In general, the Act established a threshold investment amount of one million United States dollars ($1,000,000). In order to encourage the establishment of new enterprises in areas which would most benefit from employment creation, section 203(b)(5)(B) sets aside 3,000 of the visas for qualified aliens who have made investments in targetted employment areas. Such targetted employment areas are defined in the Act to include rural areas and areas which have experienced high unemployment.

Additionally, the Attorney General may, in his discretion, lower the threshold investment amount for targetted areas to no less than five hundred thousand dollars ($500,000), in order to facilitate investment in such areas. Although a lower threshold for targetted areas has not been adopted in this rule, the Service is seriously considering lowering the figure for these areas and is interested in receiving detailed comments on the economic impact of doing so with suggestions for a working methodology. In researching this provision of the Act, the Service has noted that Congress has defined a *targetted area* as a rural area or an area which has experienced high unemployment (of at least 150 percent of the national average rate). A *rural area* is defined as any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more. Both of these definitions are found in this proposed rule.

When applying these definitions to existing Federal Government methodologies for determining areas of high unemployment, the Service has noted significant differences between the language of the Act and these methodologies. Such differences are apparent in the Department of Labor's (DOL) method of determining labor surplus areas and unemployment trends, and the Department of Housing and Urban Development's (HUD) designation of enterprise zones to stimulate the creation of new jobs.

In making its determinations, for example, DOL classifies areas on the basis of civil jurisdictions rather than using metropolitan statistical areas or labor market areas. The DOL program can be directed at specific localities with high unemployment rather than at all civil jurisdictions within a metropolitan area, provided the specific localities are identifiable civil jurisdictions. However, some high unemployment areas, such as the South Bronx, may not themselves constitute a civil jurisdiction. Under DOL's methodology, civil jurisdictions are all cities with populations of at least 25,000 and all counties. In some states, townships with populations of 25,000 or more are considered civil jurisdictions. In Connecticut, Massachusetts, Rhode Island, and Puerto Rico, where counties have very limited or no governmental functions, the classifications are done for individual towns.

Under the HUD methodology for designating enterprise zones, states and one or more local governments nominate areas for designation. A designated area must be entirely within the jurisdiction of the unit or units of local government nominating the area, have a continuous boundary, and have a population of at least 4,000. A designated rural area must have a population of at least 1,000. Indian reservations are also eligible, and there are no population requirements for them. Unemployment figures within designated zones must be at least one and one half times the national rate. In addition, the poverty rate for each populated census track within the area must be not less than 20%. For the purposes of HUD's program, a *rural area* is an area which is located within the jurisdiction of a unit or units of local government with a population of less than 50,000 and which is wholly located outside a metropolitan statistical area. It would seem that this methodology carries with it the possibility of designating pockets of high unemployment within metropolitan statistical areas as areas of high unemployment wherein a lower investment might be operative.

The Service is most interested in receiving public comment on means of applying existing Federal methodologies to the provisions of the Act pertaining to targetted areas in order to significantly benefit these areas.

Alternatively, since the Act reserves 3,000 visas for targetted areas, is this in itself enough of an incentive to invest in them? Should the Service keep the initial investment figure at one million dollars ($1,000,000) across the board and analyze the use of visas after one year of implementation? In fact, is an investment of less than one million dollars a solid investment? If the figure is lowered, should it be lowered to $500,000, or would $750,000 be a better figure? If analysis after one year indicates that few of the 3,000 visas for targetted areas have been used, should the Service then consider raising the

general initial investment figure for non-targetted areas and leaving the investment figure for targetted areas at one million dollars? (The Act authorizes the Attorney General to raise the investment figure across the board, after consultation with the Secretary of Labor and the Secretary of State, and also authorizes the Attorney General to raise the investment figure for high employment areas to up to three million dollars per investor.)

If it is determined, following the comment period, that the threshold amount should be lowered to maximize benefits to targetted areas, it will be done in the final rule. Also, the specific evidence needed to establish that an investment has been made in a targetted area will be contained in the final rule. Comments received by the Service in regard to both lowering the investment amount and establishing evidentiary requirements for targetted areas will be used in formulating the final rule.

The petition for initial classification as an alien entrepreneur will be Form I-526. The petition, which may be filed by any alien on his or her own behalf, will be submitted to the Service Center having jurisdiction over the area in which the new business is established or is principally doing business. The priority date of the petition will be the date on which the Service receives a properly filed petition.

This regulation also specifies the amount of capital which the alien entrepreneur would have had to invest or be actively in the process of investing in order to be found eligible for classification under section 203(b)(5). Although the Attorney General is authorized to adjust the threshold amount of capital downward for targetted employment areas and upward for areas experiencing significantly low unemployment, these adjustments have not yet been made. Therefore, the proposed regulation specifies an investment of one million dollars ($1,000,000) across the board.

In the legislative history of this provision, Congress noted that the alien entrepreneur should neither be restricted in choosing the form a new commercial enterprise may take nor limited in his/her ability to join with other investors, either foreign or domestic, in order to establish a viable business entity. In order to clarify the issue of multiple investors, this rule proposes that the establishment of a single new commercial enterprise could be used by more than one alien as the basis of a petition under section 203(b)(5). In such an arrangement, each individual investor must have invested or be actively in the process of investing the statutorily mandated amount for the area in which the new commercial enterprise is located, and each individual investment must result in the creation of at least 10 full-time positions for qualifying employees. Also, aliens seeking classification as entrepreneurs may establish businesses with either domestic or foreign individuals or business entities, and use those new businesses as the basis of petitions.

The Act requires that the alien establish a new commercial enterprise. This regulation describes the various ways in which a new commercial enterprise may be established. No matter which way the new commercial enterprise is established, the alien must invest the required amount and the establishment of the new commercial enterprise must create ten (10) new full-time positions.

Establishment could be brought about by the lawful creation of an original business. Establishment of a new commercial enterprise could also be accomplished through the purchase of an existing business (for at least the statutory investment amount) if, in addition to purchasing the business, the alien makes sufficient changes in its organization or operations so that it constitutes a new enterprise. Comments are invited on the type of evidence aliens who purchase such an existing business should be required to provide to demonstrate that the business has, in fact, become a new commercial enterprise.

Additionally, a new commercial enterprise could be established by an alien entrepreneur making an investment of the required amount of capital into an existing business which results in expansion of that business. Reorganization of that business is not required in this instance. For this scenario to be deemed the establishment of a new commercial enterprise, the infusion of capital must result in a substantial expansion of the existing business, consisting of not less than a 140% increase in net worth or number of employees, or both. The Service has selected the 140% figure for purposes of the proposed rule and invites comments on where to set the limit in the final rule.

In each of the instances cited above, each alien entrepreneur must invest the statutorily required amount of capital for the area invested in and create ten (10) full-time positions for qualifying employees. The Service invites comment regarding the term *new commercial enterprise* and on means for establishing such contained in this proposed rule.

The initial evidence required to accompany each petition for classification as an alien entrepreneur is described in this regulation. The initial evidence requirement is divided into five (5) areas: (1) Evidence of establishment, (2) evidence of the amount invested or to be invested, (3) evidence of employment creation, (4) evidence of the degree of management authority exercised by the alien entrepreneur, and (5) evidence addressing the targetted or non-targetted nature of the area in which the new commercial enterprise has been established.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Commissioner also certifies that this rule does not have Federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

Because the Service does not know how many aliens are likely to apply for benefits under section 203(b)(5) of the Act, it does not have sufficient information at this time to evaluate whether this is a major rule within the meaning of section 1(b) of Executive Order 12291. However, the Department of Justice and the Service know this rule will have an economic impact and are considering whether to prepare an evaluation regarding the net benefits of investment in new enterprises and which areas would most benefit from employment creation. Interested parties are invited to comment on these issues.

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

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Aliens, Employment, Immigration, Petitions.

Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for part 204 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, and 8 CFR part 2.

2. Sections 204.5 and 204.6 are revised to read as follows:

§ 204.5 Petitions for employment-based immigrants.

(a) *General.* A petition to classify an alien under section 203(b)(1), 203(b)(2), or 203(b)(3) of the Act must be filed on Form I-140, Petition for Immigrant Worker. A petition to classify an alien under section 203(b)(4) (as it relates to special immigrants under section 101(a)(27)(C)) must be filed on Form I-360, Petition for Amerasians, Widows, or Special Immigrants. A separate Form I-140 or I-360 must be filed for each beneficiary, accompanied by the fee required in 8 CFR 103.7(b)(1). A petition is considered properly filed if it is:

(1) Signed by the petitioner or authorized representative;

(2) Accompanied by the required fee;

(3) Accompanied by any required labor certification or evidence that the alien qualifies for the Department of Labor's Market Information Pilot Program; and

(4) Accompanied by any other required supporting documentation.

(b) *Jurisdiction.* Form I-140 or I-360 must be filed with the Service Center having jurisdiction over the intended place of employment.

(c) *Filing petition.* Any United States employer desiring and intending to employ an alien may file a petition for classification of the alien under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) of the Act. An alien, or any person in the alien's behalf, may file a petition for classification under section 203(b)(1)(A) or 203(b)(4) of the Act (as it relates to special immigrants under section 101(a)(27)(C) of the Act).

(d) *Priority date.* The priority date of any petition filed for classification under section 203(b) of the Act is the date the completed, signed petition (including all initial evidence and correct fee) is properly filed with the Service.

(e) *Maintaining the priority date of a third or sixth preference petition filed prior to October 1, 1991*—(1) *Petition.* In order to maintain the priority date of a petition filed before October 1, 1991, for classification under former section 203(a)(3) or 203(a)(6) of the Act, the same petitioner must file, by October 1, 1993, one or more petitions for one or more classifications under new section 203(b)(1), 203(b)(2), or 203(b)(3) of the Act. Unless the previous petition was approved or approvable, no priority date shall be maintained. The new petition must be accompanied by evidence that a previous petition was filed, or, by a notice of approval (Form I-464A or Form I-797) if the previous petition was approved.

(2) *Labor certification.* Any labor certification required for section 212(a)(5)(A) of the Act with respect to a new petition for classification under section 203(b)(1), 203(b)(2), or 203(b)(3) of the Act shall be deemed approved if the labor certification for the prior petition under section 203(a)(3) or 203(a)(6) of the Act was approved under former section 212(a)(14) of the Act.

(3) *Labor certification application filed before October 1, 1991, but petition not filed prior to October 1, 1991.* If an application for labor certification was filed before October 1, 1991, and was pending with the Department of Labor on that date, or was not used with a petition under section 203(a)(3) or 203(a)(6) of the Act before that date; the priority date of the petition under section 203(b) (1), (2), or (3) filed with that labor certification shall be the earliest date the application for certification was accepted for processing by any office within the employment service of the Department of Labor. This provision will apply only to petitions filed before October 1, 1993.

(f) *Initial evidence*—(1) *General.* Specific requirements for initial supporting documents for the various employment-based immigrant classifications are set forth in this section. In general, ordinary legible photocopies of such documents will be acceptable for initial filing and approval. However, at the discretion of the director, original documents may be required in individual cases.

(2) *Ability of prospective employer to pay wage.* Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the proffered wage at the time of establishment of a priority date. Such evidence shall be either a copy of the latest annual report or the latest United States tax return. In questionable cases, additional evidence, such as profit/loss statements, bank account records, or personnel records, may be requested.

(g) *Aliens with extraordinary ability.* (1) An alien, or any person in behalf of the alien, may file an I-140 visa petition for classification under section 203(b)(1)(A) of the Act as an alien of extraordinary ability in the sciences, arts, education, business, or athletics.

(2) *Definition.* As used in this section: *Extraordinary ability* means a level of expertise indicating that the individual is one of those few who have risen to the top of the field of endeavor.

(3) *Initial evidence.* A petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his/her achievements have been recognized in the field of expertise. Such evidence shall include evidence of a one-time achievement (that is, a major, internationally recognized award), or at least three of the following:

(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;

(ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;

(iii) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation;

(iv) Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or an allied field of specialization for which classification is sought;

(v) Evidence of the alien's original scientific, scholarly, or artistic contributions of major significance in the field or evidence of the alien's authorship of scholarly articles in the field, in professional journals or other major media;

(vi) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases in more than one country, or evidence that the alien has performed in a lead, starring or critical role for organizations or establishments that have a distinguished reputation;

(vii) Evidence that the alien has commanded a high salary or other significantly high remuneration for services in relation to others in the field or evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

(4) If the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility.

(5) *No offer of employment required.* No offer for employment in the United States (including a labor certification) is required for this classification; however, the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged

commitments such as contracts, or a statement from the beneficiary detailing plans on how he/she intends to continue his/her work in the United States.

(h) *Outstanding professors and researchers.* (1) Any United States employer desiring and intending to employ a professor or researcher who is outstanding in an academic field under section 203(b)(1)(B) may file an 1-140 visa petition for such classification.

(2) *Definition.* As used in this section:

Academic area means a body of specialized knowledge offered for study at an accredited United States university or institution of higher education.

(3) *Initial evidence.* A petition for an outstanding professor or researcher must be accompanied by:

(i) Evidence that the professor or researcher is recognized internationally as outstanding in the specific academic area. Such evidence shall consist of at least two of the following:

(A) Documentation of the alien's receipt of major international prizes or awards for outstanding achievement in the academic field;

(B) Documentation of the alien's membership in associations in the academic field, which require outstanding achievements of their members;

(C) Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation;

(D) Evidence of the alien's participation on a panel, or individually, as the judge of the work of others in the same, or an allied, academic field;

(E) Evidence of the alien's original scientific or scholarly research contributions to the academic field; or

(F) Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field;

(ii) Evidence that the alien has at least three years of experience in teaching and/or research (not including research toward a degree requirement) in the academic field. Such evidence shall be in the form of letter(s) from current or former employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien; and

(iii) An offer of employment from a prospective United States employer. A labor certification is not required for this classification. The offer of employment, therefore, shall be in the form of a letter from:

(A) A United States university or institution of higher learning offering the alien a tenured or tenure-track teaching position in the alien's academic field;

(B) A United States university or institution of higher learning offering the alien a tenured or tenure-track research position in the alien's academic field; or

(C) A department, division, or institute of a private or non-profit employer offering the alien a comparable research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

(i) *Certain multinational executives and managers.* (1) A United States employer may file a petition on Form I-140 for classification of an alien under section 203(b)(1)(C) of the Act as a multinational executive or manager.

(2) *Definitions.* As used in this section:

Affiliate means:

(A) One of two subsidiaries both of which are owned and controlled by the same parent;

(B) One of two legal entities entirely owned and controlled by the exact same individuals (not companies), each individual directly owning and controlling approximately the same share or proportion of each entity; or

(C) In the case of a partnership that is organized in the United States to provide accounting services, along with managerial and consulting services, and markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

Doing business means the regular, systematic, and continuous provision of goods and/or services by a firm, corporation, or other entity which has employees and does not include the mere presence of an agent or office.

Executive capacity means an assignment within an organization in which the employee primarily:

(A) Directs the management of the organization or a major component or function of the organization;

(B) Establishes the goals and policies of the organization, component, or function;

(C) Exercises wide latitude in discretionary decisionmaking; and

(D) Receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

Managerial capacity means an assignment within an organization in which the employee primarily:

(A) Manages the organization, or a department, subdivision, function, or component of the organization;

(B) Supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

(C) Has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) if another employee or other employees are directly supervised, or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

(D) Exercises direction over the day-to-day operations of the activity or function for which the employee has authority.

Multinational means that the qualifying entity, or its affiliate or subsidiary, conducts business in two or more countries, one of which is the United States.

Subsidiary means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

(3) *Initial evidence*—(i) *Required evidence.* A petition for a multinational executive or manager must be accompanied by a statement from an authorized official of the petitioning United States employer which demonstrates that:

(A) If the alien is outside the United States, in the three years immediately preceding the filing of the petition the alien has been employed outside the United States for at least one year in a managerial or executive capacity by a firm or corporation, or other legal entity, or by an affiliate or subsidiary of such a firm or corporation or other legal entity; or

(B) If the alien is already in the United States working for the same employer or

a subsidiary or affiliate of the firm or corporation, or other legal entity by which the alien was employed overseas, in the three years preceding entry as a nonimmigrant, the alien was employed by the entity abroad for at least one year in a managerial or executive capacity;

(C) The prospective employer in the United States is the same employer or a subsidiary or affiliate of the firm or corporation, or other legal entity by which the alien was employed overseas; and

(D) The prospective United States employer has been doing business for at least one year.

(ii) *Appropriate additional evidence.* In doubtful cases, the director may request appropriate additional evidence relating to the previous employment of the alien, the relationship between the United States and foreign entities, and the extent to which business has been done in the United States.

(4) *Determining managerial or executive capacities.*

(i) *Supervisors as managers.* A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

(ii) *Staffing levels.* If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the reasonable needs of the organization, component, or function, in light of the overall purpose and stage of development of the organization, component, or function, shall be taken into account. An individual shall not be considered to be acting in a managerial or executive capacity merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.

(5) *Offer of employment.* No labor certification is required for this classification; however, the prospective employer in the United States must furnish a job offer in the form of a statement which indicates that the alien is to be employed in the United States in a managerial or executive capacity. Such letter must clearly describe the duties to be performed by the alien.

(j) *Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability.* (1) Any United States employer may file a petition on Form I-140 for classification of an alien under section 203(b)(2) of the Act as an alien who is a member of the professions holding an advanced degree or an alien of exceptional ability in the sciences, arts, or business. If an alien is claiming exceptional ability in the sciences, arts, or business and is seeking an exemption from the requirement of a job offer in the United States pursuant to section 203(b)(2)(B), then the alien, or anyone in the alien's behalf, may be the petitioner.

(2) *Definitions.* As used in this section:

Advanced degree means any United States academic or professional degree (or a foreign equivalent degree) above that of baccalaureate. A United States baccalaureate degree (or a foreign equivalent degree) followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. The Service will not evaluate the equivalence of education and experience to a doctorate. If customarily required by the specialty, the alien must have a United States doctorate (or a foreign equivalent degree).

Exceptional ability in the sciences, arts, or business means a degree of expertise above that ordinarily encountered in the sciences, arts, or business.

Profession means the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree (or its foreign equivalent) is the minimum requirement for entry into the occupation.

(3) *Initial evidence.* The petition must be accompanied by documentation showing that the alien is a professional holding an advanced degree or an alien of exceptional ability in the sciences, arts, or business.

(i) To show that the alien is a professional holding an advanced degree, the petition must be accompanied by:

(A) An official academic record showing that the alien has an United States advanced degree (or a foreign equivalent degree); or

(B) An official academic record showing that the alien has a United States baccalaureate degree (or a foreign equivalent degree), and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

(ii) To show that the alien is an alien of exceptional ability in the sciences, arts, or business, the petition must be accompanied by at least three of the following:

(A) An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;

(B) Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he/she is being sought;

(C) A license to practice the profession or certification for a particular profession or occupation;

(D) Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;

(E) Evidence of membership in professional associations; or

(F) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

(4) *Labor certification or evidence that alien qualifies for Labor Market Information Pilot Program*—(i) *General.* Every petition under this classification must be accompanied by a labor certification or by documentation to establish that the alien qualifies for one of the shortage occupations in the Department of Labor's Labor Market Information Pilot Program. To establish the latter, a fully-executed uncertified Form ETA-750 in duplicate must accompany the petition for determination by the Service that the alien belongs to one of the shortage occupations.

(ii) *Exemption from job offer.* The director may exempt the requirement of a job offer for aliens of exceptional ability in the sciences, arts, or business if exemption would be in the national interest. To qualify for the exemption, the alien petitioner must submit Form ETA-750B, Statement of Qualifications of Alien, in duplicate, as well as evidence that he/she is in an occupation where individuals are traditionally self-employed or that his/her occupation is one of the shortage occupations within the labor market information pilot program for employment-based immigrants, and that a waiver of the job offer would be in the national interest.

(k) *Skilled workers, professionals, and other workers.* (1) Any United States employer may file a petition on Form I-140 for classification of an alien under section 203(b)(3) as a skilled worker, professional, or other (unskilled) worker.

(2) *Definitions.* As used in this part:

Other worker means a qualified alien who is capable, at the time of petitioning for this classification, of performing unskilled labor (requiring less than two years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

Professional means a qualified alien who holds at least a United States baccalaureate degree (or a foreign equivalent degree) and who is a member of the professions.

Skilled worker means an alien who is capable, at the time of petitioning for this classification, of performing skilled labor (requiring at least two years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

(3) *Initial evidence*—(i) *Labor certification or evidence that alien qualifies for Labor Market Information Pilot Program.* Every petition under this classification must be accompanied by a labor certification or by documentation to establish that the alien qualifies for one of the shortage occupations in the Department of Labor's Labor Market Information Pilot Program. To establish the latter, a fully-executed uncertified Form ETA-750 in duplicate must accompany the petition for determination by the Service that the alien belongs to one of the shortage occupations.

(ii) *Other documentation*—(A) *General.* Any requirements of training or experience for skilled workers, professionals, or other workers must be supported by letters from trainers or employers giving the name, address, and title of the trainer or employer, and a description of the training received or the experience of the alien.

(B) *Skilled workers.* If the petition is for a skilled worker, the petition must be accompanied by evidence that the alien meets the educational, training or experience, and any other requirements of the labor certification or application for the Labor Market Information Pilot Program occupation designation. The minimum requirements for this classification are at least the two years of training or experience which are required for this classification.

(C) *Professionals.* If the petition is for a professional, the petition must be accompanied by evidence that the alien holds a United States baccalaureate degree (or a foreign equivalent degree) and by evidence that the alien is a member of the professions. Evidence of a baccalaureate degree shall be in the form of an official college or university record showing the date the baccalaureate degree was awarded and the area of concentration of study. To show that the alien is a member of the professions, the petitioner must submit evidence showing that the minimum of a baccalaureate degree is required for entry into the occupation.

(D) *Other workers.* If the petition is for an unskilled (other) worker, it must be accompanied by evidence that the alien meets any educational, training and experience, and other requirements of the labor certification.

(1) *Religious workers.* (1) An alien, or any person in behalf of the alien, may file an I-360 visa petition for classification under section 203(b)(4) of the Act as a section 101(a)(27)(C) special immigrant religious worker. Such a petition may be filed by or for an alien, who for at least the two years immediately preceding the filing of the petition, has been a member of the religious denomination which has a bona fide nonprofit, religious organization in the United States. The alien must be coming to the United States solely for the purpose of: Carrying on the vocation of a minister of that religious denomination, working for the organization at the organization's request in a professional capacity in a religious vocation or occupation, or working in a religious vocation or occupation for the organization or a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 at the request of the organization. All three types of religious workers must have been performing the vocation, professional work, or other work continuously for at least the two-year period immediately preceding the filing of the petition. Petitions for professional workers and other workers must be filed on or before September 30, 1994.

(2) *Definitions.* As used in this section:

Bona fide nonprofit, religious organization in the United States means an organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

Bona fide organization which is affiliated with the religious denomination means an organization which is closely associated with the religious denomination in a subordinate or dependent position and which is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

Minister means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. The term does not include a lay preacher not authorized to perform such duties.

Professional capacity means an activity in a religious vocation or occupation for which the minimum of a United States baccalaureate degree (or a foreign equivalent degree) is required.

Religious denomination means a religious group or community of believers having some form of ecclesiastical government, a recognized creed and form of worship, a formal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, and religious congregations.

Religious occupation means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

Religious vocation means a calling to religious life as evidenced by the taking of vows. Examples of individuals with a religious vocation include, but are not limited to nuns, monks, and religious brothers and sisters.

(3) *Initial evidence.* Unless otherwise specified, or required for adjudication in a particular case, each petition for a religious worker must be accompanied by a tax-exempt certificate showing that the organization is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations, and a letter from an authorized official of the religious organization in the United States which establishes:

(i) That the religious denomination has a bona fide nonprofit, religious organization in the United States (in doubtful cases, in addition to the organization's tax-exempt certificate, evidence of the organization's assets and methods of operation, and the organization's papers of incorporation under applicable state law may be requested);

(ii) If the alien's religious membership and experience were gained, in whole or in part, outside the United States, that the foreign and United States religious organizations belong to the same religious denomination (in doubtful cases, a statement from an authorized official of the foreign religious organization may be requested);

(iii) That, immediately prior to the filing of the petition, the alien has the required two years of membership in the denomination and the required two years of experience in the religious

vocation, professional religious work, or other religious work;

(iv) If the alien is a minister, that the alien has authorization to conduct religious worship and to perform other duties usually performed by authorized members of the clergy including a detailed description of the authorized duties (in doubtful cases, the certificate of ordination or authorization may be requested);

(v) If the alien is a religious professional, that at least a United States baccalaureate (or its foreign equivalent) is required for entry into the religious profession (in all professional cases, an official academic record showing that the alien has the required degree must be submitted);

(vi) If the alien is to work in another religious vocation or occupation, that the alien is qualified in the religious vocation or occupation (including, but not limited to, establishing that the alien is a nun, monk, or religious brother, or that the type of work to be done relates to a traditional religious function);

(vii) If the alien is to work in a non-ministerial or non-professional capacity for a bona fide religious organization which is affiliated with the religious denomination, how the affiliation exists and a tax-exempt certificate indicating that the affiliated organization is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

(4) *Job offer.* The letter from the authorized official of the religious organization in the United States must also state how the alien will be solely carrying on the vocation of a minister (including any terms of payment for services or other remuneration), or how the alien will be paid or remunerated if the alien will work in a professional religious capacity or in other religious work. The documentation should clearly indicate that the alien will not be dependent on supplemental employment or solicitation of funds for support. In doubtful cases, additional evidence such as bank letters, recent audits, church membership figures, and/or the number of individuals currently receiving compensation may be requested.

(m) *Closing action*—(1) *Approval.* An approved employment-based petition will be forwarded to the United States Consulate selected by the petitioner and indicated on the petition. If a United States Consulate is not designated, the petition will be forwarded to the consulate having jurisdiction over the place of the alien's last residence abroad. If the petition indicates that the alien will apply for adjustment to permanent residence in the United States, the approved petition will be retained by the Service for consideration with the application for permanent residence (Form I-485).

(2) *Denial.* The denial of a petition for classification under section 203(b)(1), 203(b)(2), 203(b)(3), or 203(b)(4) of the Act (as it relates to special immigrants under section 101(a)(27)(C) of the Act) shall be appealable to the Associate Commissioner for Examinations. The petitioner shall be informed in plain language of the reasons for denial and his/her right to appeal.

(3) *Validity of approved petitions.* Unless revoked under section 203(e) or 205 of the Act, an employment-based petition is valid indefinitely.

§ 204.6 Petitions for employment creation aliens.

(a) *General.* A petition to classify an alien under section 203 (b) (5) of the Act as an alien entrepreneur must be filed on Form I-526, Petition for Immigrant Entrepreneur. The petition must be accompanied by the fee required under 8 CFR 103.7(b) (1). Before a petition is considered properly filed, the petition must be signed by the petitioner or authorized representative, and the requisite initial documentation as prescribed in this section must be attached.

(b) *Jurisdiction.* The petition must be filed with the Service Center having jurisdiction over the area in which the new commercial enterprise is established or in which the new commercial enterprise is principally doing business.

(c) *Eligibility to file.* A petition for classification as an alien entrepreneur may be filed by any alien on his/her own behalf.

(d) *Priority date.* The priority date of a petition for classification as an alien entrepreneur is the date the petition is properly filed with this Service or, prior to the effective date of these regulations, the date the Form I-526 was received at the appropriate Service Center.

(e) *Definitions.* As used in this section:

Capital means cash, equipment, inventory, and other tangible property. All capital shall be valued at fair market value in United States dollars. Assets acquired by unlawful means shall not be considered capital for the purposes of section 203(b)(5).

Commercial enterprise means any activity formed for the ongoing conduct of business including, but not limited to, a sole proprietorship, partnership (whether limited or general), holding company, joint venture, corporation, business trust, or other entity which may be publicly or privately owned. This definition shall not include a noncommercial activity such as owning and operating a personal residence.

Employee means an individual who provides services or labor for wages or other remuneration.

Full-time employment means employment in a position that is filled by one or more qualifying employees for a total of 35-40 hours per week (or whatever is generally considered to be full-time for the specific occupation to be engaged in).

Invest means to contribute capital. The capital contribution must represent a net infusion of the required amount of capital from abroad into the United States economy. A contribution of capital in exchange for a note, bond, convertible debt, obligation, or any other debt arrangement between the alien entrepreneur and the new commercial enterprise does not constitute a contribution of capital for the purposes of this part.

New means established after November 29, 1990.

Qualifying employee means a United States citizen, a lawfully admitted permanent resident, or other immigrant lawfully authorized to be employed in the United States including, but not limited to, a conditional resident, a temporary resident, an asylee, a refugee, or an alien remaining in the United States under suspension of deportation. This definition does not include the alien entrepreneur, the alien entrepreneur's spouse, sons or daughters, or any nonimmigrant alien.

Rural area means any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more.

Targetted employment area means an area which, at the time of investment, is a rural area or an area which has experienced unemployment of at least 150 percent of the national average rate.

(f) *Required amounts of capital*—(1) *General.* The amount of capital specified to make a qualifying investment in the United States is one million United States dollars ($1,000,000), such specification made pursuant to section 203(b)(5)(C)(i) of the Act.

(2) *Targetted employment area.* The amount of capital specified to make a qualifying investment in a targetted employment area within the United States is one million United States dollars ($1,000,000), such specification made pursuant to section 203(b)(5)(C)(ii) of the Act.

(3) *High employment area.* The amount of capital specified to make a qualifying investment in such an area

within the United States is one million United States dollars ($1,000,000), such specification made pursuant to section 203(b)(5)(C) (ii) and (iii) of the Act.

(g) *Multiple investors.* The establishment of a new commercial enterprise may be used as the basis of a petition for classification as an alien entrepreneur by more than one investor, provided each individual investor has invested or is actively in the process of investing the required amount for the area in which the new commercial enterprise is located, and provided each individual investment results in the creation of at least 10 full-time positions for qualifying employees. The establishment of a new commercial enterprise may be used as the basis of a petition for classification as an alien entrepreneur even though there are several owners of the enterprise, including persons who are not seeking classification under section 203(b)(5) of the Act and non-natural persons, both foreign and domestic.

(h) Establishment of a new commercial enterprise. The establishment of a new commercial enterprise may consist of either the creation of an original business, or the purchase of an existing business where the alien makes sufficient changes in its organization or operations to constitute a new enterprise, or the expansion of an existing business through investment of the required amount, so that a substantial change in either the net worth or number of employees, or both, results from the investment of capital. Substantial means an increase of at least 140 percent.

(i) *Initial evidence to accompany petition.* A petition submitted for classification as an alien entrepreneur must be accompanied by evidence that the alien has invested or is actively in the process of investing in a new commercial enterprise in the United States which will create full-time positions for not fewer than 10 qualifying employees.

(1) To show that a new commercial enterprise has been established by the petitioner in the United States, the petition must be accompanied by:

(i) Articles of incorporation;

(ii) Partnership or joint venture agreement;

(iii) Certificate evidencing authority to do business in a state or municipality; or

(iv) Evidence that, as of a date certain after November 29, 1990, the required amount of capital for the area in which an enterprise is located has been transferred to an existing business, and that the investment has resulted in a substantial increase in either the net worth or the number of employees or both, of the business to which the capital was transferred. This evidence may be in the form of payroll records, certified financial reports, and any available evidence of conveyance of the funds from the alien entrepreneur to the business.

(2) To show that the petitioner has invested or is actively in the process of investing the required amount of capital in a new commercial enterprise, the petition must be accompanied by:

(i) Bank statement(s) showing amount(s) deposited in United States business account(s) for the enterprise;

(ii) Evidence of all assets which have been purchased for use in the United States enterprise, including invoices, sales receipts, and purchase contracts containing brief descriptions of the goods and purchase prices;

(iii) Evidence of all property transferred from abroad for use in the United States enterprise, including applicable United States Customs Service commercial entry documents containing brief descriptions and fair market valuations; or

(iv) Evidence of monies transferred to the new commercial enterprise in exchange for shares of stock (voting or nonvoting, common or preferred). Such stock may not include terms requiring the new commercial enterprise to redeem it at the holder's request.

(3) To show that the new commercial enterprise will create not fewer than 10 full-time positions for qualifying employees, the petition must be accompanied by:

(i) Documentation consisting of photocopies of Forms I-9 for 10 qualifying employees, if such employees have already been hired following the establishment of the new commercial enterprise; or

(ii) A copy of a comprehensive business plan showing that, due to the nature and projected size of the new commercial enterprise, the need for not fewer than 10 qualifying employees will result, including approximate dates, within the next two (2) years, when such employees will be hired.

(4) To show that the petitioner is or will be engaged in the management of the new commercial enterprise, either through the exercise of day-to-day managerial control or through policy formulation, as opposed to maintaining a purely passive role in regard to the investment, the petition must be accompanied by:

(i) A statement of the position title that the petitioner has or will have in the new enterprise, and a complete description of the position's duties;

(ii) Evidence that the petitioner is a corporate officer or holds a seat on a corporate board of directors; or

(iii) If the new enterprise is a partnership, either limited or general, evidence that the petitioner is engaged in either direct management or policy making activities.

(5) If applicable, to show that the new commercial enterprise has been established in a targetted employment area, the petition must be accompanied by a copy of the applicable portion of the latest decennial census of the United States (in the case of a rural area), or copies of the most recently published (within the last year) unemployment statistics for both the United States and the area in which the enterprise is principally doing business (in the case of a high unemployment area).

(j) *Decision.* The petitioner will be notified of the decision, and, if the petition is denied, the reasons for the denial and the petitioner's right to appeal to the Associate Commissioner for Examinations. The decision must specify whether or not the new commercial enterprise has been established or is principally doing business within a targetted employment area.

(k) *Disposition of approved petition.* The approved petition will be forwarded to the United States consulate selected by the petitioner and indicated on the petition. If a consulate has not been designated, the petition will be forwarded to the consulate having jurisdiction over the place of the petitioner's last residence abroad. If the petitioner is eligible and will apply for adjustment of status to permanent residence within 60 days of the date of approval of the petition, the approved petition will be retained by the Service for consideration in conjunction with the application for permanent residence.

Dated: June 26, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

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RAILROAD RETIREMENT BOARD

20 CFR Part 320

RIN 3220-AA73

Initial Determinations Under the Railroad Unemployment Insurance Act and Review of and Appeals From Such Determinations

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) herey proposes to amend part 320 of its regulations to provide for a right of notice, intervention and appeal to railroad employers with respect to the payment of claims under the Railroad Unemployment Insurance Act. These changes are required by the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 title VII of Public Law 100–657.

DATES: Comments must be received on or before August 5, 1991.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 (312) 751–4513 (FTS 386–4513).

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (Improvement Act), title VII of Public Law 100–677 (102 Stat. 3342, 3757), the contribution rate of employers under the Railroad Unemployment Insurance Act (RUIA) did not vary with the number of claims for unemployment or sickness benefits paid for employees of that employer. The Improvement Act introduced the concept of experience rating into the RUIA. Under experience rating, an employer's tax rate will vary depending on the amount of unemployment or sickness benefits paid to employees employed by the employer in the base year (the calendar year prior to the benefit year). The Improvement Act also provides for the right of employers to challenge the payment of benefits if the claimant was employed in the base year by the employer. These amendments were effective January 1, 1990.

Specifically, section 7104(a) of the Improvement Act adds a provision to section 5(b) of the RUIA which requires that the Board notify a claimant's base-year employer(s) at the time of filing a claim so that the employer(s) may provide information with respect to the claim (proposed § 320.5). Since the base-year employer(s) will be charged for benefits erroneously paid but waived under part 340 of this chapter, the proposed rule also provides that in making a waiver determination the Board shall notify the claimant's base-year employer(s), and most recent employer, if different, and provide the employer(s) an opportunity to submit information with respect to whether waiver is appropriate (proposed § 320.11(g)).

Section 7104(b) provides that when a claim is paid, the base-year employer(s) may appeal to the Board for review of such determination. Upon such an appeal the Board may appoint an individual to take evidence and submit a recommended decision. Since most appeals filed by employers under this part will require the appointment of a hearings officer to develop a factual record, the Board proposes under its authority in section 5(d) of the RUIA (dealing with the Board's authority to establish intermediate appellate bodies) that before a base-year employer may present his case to the Board, the employer must seek reconsideration from the initial adjudicating unit (§ 320.10). If the decision on reconsideration is unfavorable, the employer may have the case heard before an independent hearings officer (§ 320.12), and if dissatisfied by that decision, may appeal to the Board (§ 320.38). This proposed procedure will ensure that by the time a case reaches the three-member Board an adequate record will have been developed. This procedure parallels the procedure presently provided for in this part with respect to an appeal by a claimant from a denial of benefits.

Proposed § 320.2 provides that the term "party" as used in this part includes not only the claimant but also the base-year employer(s) and anyone so designated as a party under proposed § 320.19. Decisions are binding on all parties with respect to all claims involving the same issues under dispute (proposed §§ 320.32 and 320.42).

Proposed § 320.19 provides that whenever an appeal is taken to a hearings officer the hearings officer shall notify the parties other than the appellant that an appeal has been filed and that they have a right to participate in the proceedings. A party who elects not to participate in the appeal shall be bound by any subsequent decision of the hearings officer and shall have no further right to review.

Likewise, when a party who is aggrieved by a decision of a hearings officer files an appeal with the Board, proposed § 320.40 provides that the Secretary to the Board shall notify all parties to the hearings officer's decision that an appeal has been filed.

Proposed § 320.25(d) provides that in the discretion of the hearings officer and with the approval of the Director of Hearings and Appeals any hearing required under this part may be held by telephone conference rather than "face to face" but only if all parties to the appeal agree. In the case of multiple party appeals where issues on appeal are simple, the use of the "telephone hearing" will provide a prompt and efficient means of fulfilling the requirement for a hearing under this part.

A new § 320.49 is proposed to be added which provides that for purposes of this part the date of filing shall be the date of receipt at an office of the Board. By agreement between the Board and an employer, any document required to be filed with the Board or any notice required to be sent to the employer may be accomplished by electronic mail.

The proposed rule also makes some technical corrections by eliminating in certain places the phrases "interested party" or "properly interested party" and substituting therefor, simply "party." By definition a "party" to a proceeding under this part is "properly interested" and thus this rule proposes to remove this confusing redundancy.

Finally, on January 28, 1990, provisions in the regulations affording claimants the opportunity for a pre-recovery hearing with respect to waiver requests expired by operation of the sunset provision in § 320.11(k). Consequently, all references to a pre-recovery hearing now present in § 320.11 are proposed to be removed.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no regulatory impact analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601–611). In addition, the requirements for the collection of information within the meaning of the Paperwork Reduction Act of 1980 have been approved by the Office of Management and Budget.

List of Subjects in 20 CFR Part 320

Railroad employee, Railroad unemployment insurance.

Initial Determinations Under the Railroad Unemployment Insurance Act and Review of and Appeals From Such Determinations

For the reasons set out in the preamble, title 20, chapter II, part 320 of the Code of Federal Regulations is proposed to be amended as follows:

PART 320—[AMENDED]

1. The authority citation for part 320 is revised to read as follows:

Authority: 45 U.S.C. 355 and 362(1).

2. Section 320.1 is revised to read as follows:

§ 320.1 Introduction.

This part explains which units of the Board are authorized to make initial determinations with respect to entitlement to benefits under the Railroad Unemployment Insurance Act and waiver of recovery of overpayments under that Act. This part explains how notice of such determinations is to be communicated to the claimant and to his or her base-year employer(s) and how these determinations may be appealed.

3. A new § 320.2 is added to read as follows:

§ 320.2 Definitions.

As used in this part—

Base-year employer means the railroad employer(s) for whom a claimant worked and earned compensation creditable under the Railroad Unemployment Insurance Act during the base year. The base year is the calendar year immediately preceding the benefit year for which a claim is being filed. A benefit year is generally the period July 1 through the following June 30.

Party means the claimant, the base-year employer(s), or any person so designated under § 320.19 of this part.

4. Section 320.5 is revised to read as follows:

§ 320.5 Initial determinations.

An initial determination shall be made with respect to each claim for unemployment or sickness benefits by the appropriate adjudicating office as provided by § 320.6 of this part. Prior to making an initial determination the Board shall provide the claimant's base-year employer(s) and most recent employer if different with notice that a claim has been filed and that the employer(s) has an opportunity to submit information which may be pertinent to the adjudication of the claim. The adjudicating office shall make its determination on the basis of the claimant's application and claim and any other relevant information or evidence including any information received from the base-year employer(s). A determination allowing payment of an initial claim shall not establish a presumption that benefits for subsequent claims in the same period of unemployment or sickness are also payable. The Director of Unemployment and Sickness Insurance shall issue instructions with respect to the adjudication of claims and initial determination on such claims. If it is found that only part of the benefits claimed may initially be paid, a partial payment shall be made prior to a final decision on the whole claim.

5. Paragraph (a) of § 320.8 is revised to read as follows:

§ 320.8 Notice of initial determination.

(a) *Benefits payable.* If benefits are payable for a claim, no special notice of the award will be issued to the claimant. A notice of the award will be sent to the base-year employer(s). The amount of benefits due will be certified to the United States Treasury Department for payment.

* * * * *

6. Section 320.9 is amended by adding a new paragraph (c) to read as follows:

§ 320.9 Notice of erroneous benefit payment.

* * * * *

(c) *Request for reconsideration only.* A request solely for reconsideration of an overpayment shall not be considered a request for waiver under § 320.11 of this part but shall be treated as a request for reconsideration under § 320.10 of this part.

7. Section 320.10 is revised to read as follows:

§ 320.10 Reconsideration of initial determination.

(a) *Request.* A claimant shall have the right to request reconsideration of an initial determination under § 320.5 of this part which denies in whole or in part his or her claim for benefits. A claimant shall have the right to request reconsideration of a notice of overpayment under § 320.9 of this part. The base-year employer(s) shall have the right to request reconsideration of an initial determination under § 320.5 of this part which awards in whole or in part a claimant's claim for benefits. A reconsideration request shall be made in writing and addressed to the adjudicating office that issued the initial determination and must be received by the adjudicating office no later than 60 days from the date of the notice of the initial decision.

(b) *Review of evidence.* Upon request, the party requesting reconsideration shall have an opportunity to review all evidence and documents that pertain to the initial determination. The Board shall make all reasonable efforts to protect the identity of the source of adverse evidence.

(c) *Notice of decision.* The adjudicating office shall, as soon as possible, render a decision on the request for reconsideration. If a decision rendered by a district office, as the adjudicating office, sustains the initial determination, either in whole or in part, the decision shall be referred to the appropriate regional office for review prior to issuance. The party who requested reconsideration shall be notified, in writing, of the decision on reconsideration no later than 15 days from the date of the decision or, where the regional office has conducted a review of the decision, within 7 days following the completion of the review. If the decision results in denial of benefits, the claimant shall be notified of the right to appeal as provided in § 320.12 of this part. If the decision results in payment of benefits, the base-year employer(s) shall be notified of the right to appeal as provided in § 320.12 of this part.

(d) *Right to further review of initial determination.* The right to further review of a determination made under §§ 320.5 or 320.6 of this part shall be forfeited unless a written request for reconsideration is filed within the time period prescribed in this section or good cause is shown by the party requesting reconsideration for failing to file a timely request for reconsideration.

(e) *Timely request for reconsideration.* In determining whether either the claimant or the base-year employer(s) has good cause for failure to file a timely request for reconsideration, the adjudicating office shall consider the circumstances which kept either the claimant or the base-year employer(s) from filing the request on time and whether any action by the Board misled either of them. Examples of circumstances where good cause may exist include, but are not limited to:

(1) A serious illness which prevented the claimant from contacting the Board in person, in writing, or through a friend, relative or other person;

(2) A death or serious illness in the claimant's immediate family which prevented him or her from filing;

(3) The destruction of important and relevant records;

(4) A failure to be notified of a decision; or

(5) The existence of an unusual or unavoidable circumstance which demonstrates that either the claimant or the base-year employer(s) would not have known of the need to file timely or which prevented either of them from filing in a timely manner.

8. Section 320.11 is revised to read as follows:

§ 320.11 Request for waiver of recovery.

(a) *Time limitation.* The claimant shall have 30 days from the date of the notification of the erroneous payment determination in which to file a request for waiver, except that where an erroneous payment is not subject to waiver in accordance with § 340.10(e) of this chapter, waiver may not be

requested and recovery will not be stayed. Such requests shall be made in writing and be filed by mail or in person at any Board office. The claimant shall, along with the request, submit any evidence and argument which he or she would like to present in support of his or her case.

(b) *Recovery action.* Where a claimant has made a timely request for waiver of recovery, no action will be taken to recover the erroneous payment by setoff against current benefits prior to a decision on such request; *Provided however,* That the Board may, prior to a decision, withhold the amount of the erroneous payment from benefit payments under any of the following circumstances:

(1) The claimant admits he or she was at fault in causing the overpayment;

(2) The claimant is found to have committed fraud;

(3) The claimant authorizes recovery by setoff or agrees to repayment; or

(4) The amount of erroneous payment is not subject to waiver or provided for in § 340.10(e) of this chapter.

(c) *Review of evidence.* Upon request, the claimant shall have an opportunity to review all evidence and documents that pertain to the erroneous payment determination.

(d) *Decision.* The Director of Unemployment and Sickness Insurance shall make a decision on the claimant's request for waiver of recovery and shall notify the claimant accordingly. The decision of the Director shall include the basis of the decision, setting forth his or her reasons for the decision including the impact, if any, of any evidence submitted by the base year or last employer. If the Director decides that waiver of recovery is not appropriate, the adjudicating office shall wait 15 days from the date of the notification of the waiver decision before taking any action to recover the erroneous payment. If the Director decides that recovery should be waived, any amount of the erroneous payment so waived but previously recovered by setoff shall be refunded to the claimant.

(e) *Appeal.* If the Director of Unemployment and Sickness Insurance decides that waiver of recovery is not appropriate, the claimant shall have the right to appeal such decision as provided under § 320.12 of this part.

(f) *Request made after 30 days.* Nothing in this section shall be taken to mean that waiver of recovery will not be considered in those cases where the request for waiver is not filed within 30 days. But action to recover the erroneous payment will not be deferred if such a request is not timely filed. Further it shall not be considered that a claimant prejudices his or her request for waiver by tendering all or a portion of the erroneous payment or by selecting a particular method for repaying the debt. However, no waiver consideration will be given to any debt which is settled by compromise.

(g) *Evidence provided by base-year employer(s) and most recent employer, if different.* In making a decision under paragraph (h) of this section, the Director of Unemployment and Sickness Insurance shall consider all evidence of record including any evidence submitted by the claimant's base-year employer(s) and the most recent employer, if different. Where a claimant has requested waiver the Director shall notify his or her base-year employer(s) and the most recent employer, if different, of the right to submit, within 30 days, any information which may be pertinent to the waiver decision.

9. Section 320.12 is revised to read as follows:

§ 320.12 Appeal to the Bureau of Hearings and Appeals.

Any party aggrieved by a decision under § 320.10 of this part or a claimant aggrieved by decision under § 320.11 of this part may appeal such decision to the Bureau of Hearings and Appeals. Such an appeal shall be made by filing the form prescribed by the Board. The appeal must be filed with the Bureau of Hearings and Appeals within 60 days from the date upon which the notice of the decision or consideration or waiver of recovery was mailed to either a claimant or the base-year employer(s). If no appeal is filed within the time limits specified in this section, the decision of the adjudicating office under § 320.10 or § 320.11 of this part shall be considered final and no further review of such decision shall be available unless the hearings officer finds that there are good cause for the failure to file a timely appeal as described in § 320.10 of this part.

10. Section 320.18 is revised to read as follows:

§ 320.18 Hearings officer.

Within a reasonable time after a party has filed a properly executed appeal, the Director of Hearings and Appeals shall appoint a hearings officer to act in the appeal. Such hearings officer shall not have any interest in the parties or in the outcome of the proceeding, shall not have directly participated in the initial determination from which the appeal is made, and shall not have any other interest in the matter which might prevent a fair and impartial hearing. In any case in which employee status or creditability of compensation is an issue, the hearings officer shall receive evidence and report to the Board thereon with recommendations. In all other cases, the hearings officer shall consider and decide the appeal; in each such case where the hearings officer determines that an issue of fact exists, the parties shall have the right to a hearing.

11. A new § 320.19 is added to read as follows:

§ 320.19 Election to participate.

(a) *Claimant files an appeal.* Where the claimant has filed an appeal under § 320.12 of this part the hearings officer shall notify the claimant's base-year employer(s) that such an appeal has been filed and shall provide the base-year employer with a statement of issues on appeal. The hearings officer shall inform the base-year employer(s) that such employer(s) shall have a right to be present at any hearing which is to be held under this part and the right to submit evidence with respect to the issues on appeal. Within 30 days of the date of such notice a base-year employer shall provide the hearings officer with a statement in writing which summarizes the evidence which such employer intends to present with respect to the issues on appeal, which indicates whether the employer wishes to be present at any hearing which may be held, and which designates who will represent the employer with respect to the appeal. An employer who fails to respond in the time prescribed shall be barred from further participation in the appeal and shall forfeit any further right of review as provided for in this part.

(b) *Base-year employer files an appeal.* Where a base-year employer files an appeal under § 320.12 of this part, the hearings officer shall notify the claimant that such an appeal has been filed and shall provide the claimant with a statement of issues on appeal. The hearings officer shall inform the claimant that he or she or a duly authorized representative shall have a right to be present at any hearing which is to be held under this part and the right to submit evidence with respect to the issues on appeal. Within 30 days of the date of such notice the claimant shall file with the hearings officer an election to participate in the appeal. A claimant who fails to file an election in the time prescribed shall be barred from further participation in the appeal and shall forefeit any right of review as provided for in this part.

12. Section 320.25 is amended by striking the words "properly interested" in the first sentence of paragraph (b), and by revising paragraph (c) and

adding a new paragraph (d) to read as follows:

§ 320.25 Hearing of appeal.

* * * * *

(c) *Where no oral hearing required.* Where the hearings officer finds that no factual issues are presented by an appeal, and the only issues raised by the parties are issues concerning the application or interpretation of law, the parties or their representatives shall be afforded full opportunity to submit written argument in support of their position but no oral hearing shall be held.

(d) *Hearing by telephone.* In the discretion of the hearings officer and with the approval of the Director of Hearings and Appeals and agreement of all parties, any hearing required under this part may be conducted by telephone conference.

§ 320.28 [Amended]

13. Section 320.28 is amended by striking the words "properly interested" in the last sentence.

§ 320.30 [Amended]

14. Section 320.30 is amended in Paragraph (e)(6) by striking the word "interested" in both sentences.

15. Section 320.32 is revised to read as follows:

§ 320.32 Effect of decision of hearings officer.

A decision of the hearings officer, subject to review as hereinafter provided, shall be binding upon any adjudicating office and upon all parties:

(a) With respect to the initial determination involved, and

(b) With respect to other initial determinations, irrespective of whether they have been appealed, which involved the same parties and which were based upon the same issue or issues determined in the decision of the hearings officer.

16. Section 320.38 is revised to read as follows:

§ 320.38 Appeal to Board from decision of hearings officer.

Any claimant aggrieved by a decision of the hearings officer and any base-year employer(s) whose employee was awarded benefits, who participated in the appeal before the hearings officer, may appeal to the Board for reveiw of the decision.

17. Section 320.39 is revised to read as follows:

§ 320.39 Execution and filing of appeal to Board from decision of hearings officer.

An appeal to the Board from the decision of a hearings officer shall be filed on the form provided by the Board, and shall be executed in accordance with the instructions on the form. Such appeal shall be filed within 60 days from the date upon which notice of the decision of the hearings officer was mailed to the parties. The right to further review of a decision of a hearings officer shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed in this section. However, when a party fails to file an appeal before the Board within the time prescribed in this section, the Board may waive this requirement if, along with the final appeal from, the party in writing requests an extension of time. The request for an extension of time must give the reasons why the final appeal form was not filed within the time limit prescribed in this section. If in the judgment of the Board the reasons given establish that the party had good cause for not filing the final appeal form within the time limit prescribed, the Board will consider the appeal to have been filed in a timely manner. The Board will use the standards found in § 320.10(e) of this chapter in determining if good cause exists.

(Approved by the Office of Management and Budget under control number 3220-0020)

18. Section 320.40 is revised to read as follows:

§ 320.40 Procedure before Board on appeal from decision of hearings officer.

Upon the filing of an appeal to the Board from a decision of a hearings officer, the Secretary to the Board shall notify all parties to the decision of the hearings officer that an appeal has been filed. The parties shall not have the right to submit additional evidence, except that:

(a) The Board may permit the submission of additional evidence upon a showing by a party that he or she has additional evidence to present which, for valid reasons, he or she was unable to present at an earlier stage;

(b) The Board may request the submission of additional evidence; and

(c) The Board may designate any employee of the Board to take additional evidence and to report his or here findings to the Board. Any such additional evidence shall be submitted in such manner as the Board may indicate and shall be included in the record.

19. Section 320.42 is amended by revising paragraph (b) to read as follows:

§ 320.42 Decision of the Board.

* * * * *

(b) With respect to other initial determinations, irrespective of whether they have been appealed, which involve the same parties and which were based on the same issue or issues determined in the decision of the Board. In a case in which there has been a hearings officer's report, in an appeal involving employee status or the creditability of compensation, the decision of the Board upon all issues determined in such decision shall be final and conclusively establish all rights and obligations, arising under the Act, of every party notified as hereinabove provided of his or her right to participate in the proceedings.

§ 320.45 [Amended]

20. Section 320.45 is amended in paragraph (b) by striking the word "the" before the word "party" and by substituting therefor, the words "an aggrieved".

21. A new § 320.49 is added to read as follows:

§ 320.49 Determination of date of filing.

For purposes of this part the date of filing of any document or form shall be the date of receipt at an office of the Board. By agreement between a base-year employer and the Board any document required to be filed with the Board or any notice required to be sent to the employer may be transmitted by electronic mail.

Dated: June 24, 1991.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 91-15756 Filed 7-3-91; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-069-89]

RIN 1545-A012

Reasonable Mortality Charges for Life Insurance Contracts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations relating to the required use of reasonable mortality charges in determining whether a contract qualifies as a life insurance contract and, by cross-reference, whether the contract is a modified endowment contract for federal tax purposes. Changes were made to this

requirement by the Technical and Miscellaneous Revenue Act of 1988. These regulations are necessary to provide guidance to insurance companies attempting to qualify their products as life insurance contracts.

DATES: Written comments must be received by September 4, 1991. Requests to speak (with outlines of oral comments) at a public hearing scheduled for September 25, 1991, at 10 a.m. must be received by September 11, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register**.

ADDRESSES: Send comments, requests to appear at the public hearing, and outlines of comments to be presented to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Atten: CC: CORP:T:R (FI-69-89), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Donald J. Drees, Jr. 202-566-3350 (not a toll-free number). Concerning the hearing, Carol Savage of the Regulations Unit, 202-377-9236 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document sets forth proposed income tax regulations under section 7702(c)(3)(B)(i) of the Internal Revenue Code relating to the required use of reasonable mortality charges in determining whether a contract qualifies as a life insurance contract for purposes of the Code. Section 7702(c)(3)(B)(i) was amended by the Technical and Miscellaneous Revenue Act of 1988, 102 Stat. 3342. In Notice 88-128, 1988-2 C.B. 540, the Internal Revenue Service provided interim rules interpreting the reasonable mortality charge requirement.

Explanation of Provisions

Section 7702, which was enacted by the Tax Reform Act of 1984, section 221(a), defines the term "life insurance contract" for purposes of the Code as any contract that is a life insurance contract under applicable law, but only if the contract either: (1) Meets the cash value accumulation test of section 7702(b), or (2) both meets the guideline premium requirements of section 7702(c) and falls within the cash value corridor of section 7702(d).

Section 7702(c)(3)(B)(i) provides that reasonable mortality charges are those which meet the requirements (if any) prescribed in regulations and which (except as provided in regulations) do not exceed the mortality charges specified in the prevailing commissioners' standard tables (as defined in section 807(d)(5)) as of the time the contract is issued. The mortality charges specified in section 7702(c)(3)(B)(i) are used to determine the "net single premium" (for the cash value accumulation test) and the "guideline single premium" and the "guideline level premium" (for the guideline premium test). See sections 7702(b)(2)(B) and 7702(c)(4).

These proposed regulations define "reasonable mortality charges" as those amounts that an insurance company actually expects to impose as consideration for assuming the risk of the insured's death (regardless of the designation used for those charges), taking into account any relevant characteristics of the insured of which the company is aware. Except as provided in the proposed regulations, reasonable mortality charges cannot exceed the lesser of the applicable mortality charges specified in the prevailing commissioners' standard tables in effect at the time the contract is issued or the mortality charges specified in the contract at issuance.

The proposed regulations provide three safe harbors under which mortality charges for contracts with only one insured are deemed to be reasonable mortality charges. The first safe harbor provides that mortality charges that do not exceed the applicable charges set forth in the Commissioners' 1980 Standard Ordinary Mortality Table for male or female insureds ("1980 C.S.O. Basic Mortality Tables") are treated as reasonable mortality charges. (These tables are gender specific but do not contain other selection factors.) There is statistical evidence that mortality charges provided in these tables exceed charges actually imposed by insurance companies. As a result, contracts qualifying as life insurance under the safe harbor can be more investment-oriented than contracts that are tested under an "actually imposed" mortality charge standard. Nevertheless, this safe harbor is created in recognition of state minimum nonforfeiture laws which may require cash values based on these higher mortality charges.

The second safe harbor treats mortality charges that do not exceed the applicable charges in certain variations of the 1980 C.S.O. Mortality Tables as reasonable mortality charges, provided certain requirements are satisfied. Thus, if a state permits minimum nonforfeiture values for all contracts issued under a plan of insurance to be determined using the 1980 C.S.O. Gender-Blended Mortality Tables ("unisex tables"), then the applicable mortality charges in those tables are treated as reasonable mortality charges for female insureds (provided the same tables are used to determine mortality charges for male insureds) even though the charges exceed the charges applicable for female insureds specified in the 1980 C.S.O. Basic Mortality Tables. Similarly, if a state permits minimum nonforefeiture values for all contracts issued under a plan of insurance to be determined using the 1980 C.S.O. Smoker and Nonsmoker Mortality Tables ("smoker/nonsmoker tables"), then the applicable mortality charges in those tables for smoker insureds are treated as reasonable mortality charges (provided nonsmoker tables are used to determine nonsmoker mortality charges) even though the charges exceed the applicable charges specified in the 1980 C.S.O. Basic Morality Tables. The third safe harbor treats mortality charges as reasonable if they are not in excess of the applicable charges specified in the 1958 C.S.O. Mortality Table provided that the applicable contracts are not "modified endowment contracts" and were issued on or before December 31, 1988, pursuant to a plan of insurance or policy blank that was based on the 1958 C.S.O. Mortality Tables and that was approved by the appropriate state regulatory authority on or before October 21, 1988.

The proposed regulations also provide special rules for contracts involving substandard risks and for nonparticipating contracts. Although reasonable mortality charges generally may not exceed the applicable charges specified in the prevailing commissioners' standard tables, the special rules permit mortality charges for contracts involving substandard risks and for nonparticipating contracts to exceed the charges set forth in the prevailing tables if the insurance company actually expects to impose those higher charges. For this purpose, the term "substandard risk" is defined to mean a risk of death that exceeds the standards set for normal or regular risks. In determining whether any particular insured presents a substandard risk, a company must take into account relevant facts and circumstances such as the insured person's medical history and any law that prohibits or limits the company's inquiry into some or all aspects of the insured's medical history (thereby increasing the potential unknown insurance risk with respect to insureds). The term "nonparticipating contract" is defined as a contract that contains no right to participate in the issuer's divisible surplus, if any, and that contains no "charge reduction mechanism."

The proposed regulations define the term "prevailing commissioners' standard tables" to mean the tables containing the higher of the charges in the tables described in section 807(d)(5)(A) or the charges in any other tables that section 807(d)(5) allows to be used with respect to contracts for purposes of section 807(d)(2)(C) (relating to the computation of life insurance reserves). (For this purpose, the limitation of section 807(d)(5)(E) does not apply.) Thus, for example, if the prevailing commissioners' standard tables as of the beginning of any calendar year (hereinafter referred to as the year of change) is different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, then except as provided in the temporary regulations, the reasonable mortality charges for contracts issued after the change and before the close of the 3-year period beginning on the first day of the year of change cannot exceed the higher of the applicable mortality charges specified in the old tables or those specified in the new tables.

The proposed regulations apply to life insurance contracts entered into on or after October 21, 1988.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. Comments are specifically requested on the appropriateness of using mortality charges that are less than those in the 1980 C.S.O. tables either to define reasonable mortality charges or to establish a safe harbor. Comments are also specifically requested on: (1) Whether or not the 1980 C.S.O. tables, which are a safe harbor under these proposed regulations, generally contain mortality charges high enough to cover the charges actually imposed with respect to the most common substandard risk cases, and (2) any appropriate safe harbors or methodologies for computing mortality charges for contracts involving more than one insured.

All comments will be available for public inspection and copying in their entirety. A public hearing has been scheduled for September 25, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Donald J. Drees, Jr., Office of the Assistant Chief Counsel (Financial Institutions and Products), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Service and the Treasury Department participated in developing the regulations, in matters of both substance and style.

List of Subjects in 26 CFR 1.7001–1 Through 1.7704–1

Bonds, Closing agreement, Compromises, Crimes, Definitions, Discovery of liability, Employment taxes, Enforcement of title, Estate taxes, Excise taxes, Forfeiture taxes, Gift taxes, Income taxes, Judicial proceedings, Licensing and registration, Miscellaneous provisions, Other offenses, Penalties, Taxes.

Proposed Amendments to the Regulations

Accordingly, title 26, part 1, of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Section 1.7702–1 also issued under 26 U.S.C. 7702(c)(3)(B)(i).

Par. 2. New section 1.7702–0 is added in the appropriate place.

§ 1.7702–0 Table of contents.

This section lists the captions that appear in the regulations under section 7702 of the Code.

§ 1.7702–1 Mortality charges.

(a) General rule.
(b) Reasonable mortality charges.
  (1) Actually expected to be imposed.
  (2) Limit on charges.
(c) Safe harbors.
  (1) 1980 C.S.O. Basic Mortality Tables.
  (2) Unisex tables and smoker/nonsmoker tables.
  (3) Certain contracts based on 1958 C.S.O. table.
(d) Definitions.
  (1) Prevailing commissioners' standard tables.
  (2) Substandard risk.
  (3) Nonparticipating contract.
  (4) Charge reduction mechanism.
  (5) Plan of insurance.
(e) Effective Date.

Par. 3. New section 1.7702–1 is added to read as follows:

§ 1.7702–1 Mortality charges.[1]

(a) *General rule.* Reasonable mortality charges must be used in determining the "net single premium," the "guideline single premium," and the "guideline level premium" under section 7702 for a life insurance contract. For purposes of this paragraph, mortality charges are "reasonable mortality charges" if they do not exceed the lesser of

(1) The charges described in paragraph (b) of this section or in one of the safe harbors contained in paragraph (c) of this section, or

(2) The mortality charges specified in the contract.

(b) *Reasonable mortality charges*—(1) *Actually expected to be imposed.* Except as limited by paragraph (b)(2) of this section, mortality charges described in this paragraph are those amounts that the insurance company actually expects to impose as consideration for its assuming the risk of the insured's death (regardless of the designation used for those charges), taking into account any relevant characteristics of the insured of which the company is aware. Every insurance company to which this paragraph applies must be prepared to establish to the satisfaction of the district director that the mortality charges are actually expected to be imposed, taking into account the likelihood of the surrender of the contract.

(2) *Limit on charges.* If mortality charges described in paragraph (b)(1) of this section exceed the mortality charges derived from the prevailing commissioners' standard tables in effect as of the time the contract is issued, they are not described in this paragraph (b). Notwithstanding the preceding sentence, mortality charges that are imposed with regard to a substandard risk (as defined in paragraph (d)(2) of this section) or imposed with regard to a

[1] The tables referenced in this section are available for public inspection during normal business hours at the Internal Revenue Service FOIA Reading Room, room 1569, 1111 Constitution Avenue, NW., Washington, DC 20224.

nonparticipating contract (as defined in paragraph (d)(3) of this section) do not fail to be described in this paragraph (b) solely on the grounds that the charges exceed the applicable mortality charges specified in the prevailing commissioners' standard tables as of the time the contract is issued.

(c) *Safe harbors*—(1) *1980 C.S.O. Basic Mortality Tables.* For contracts that provide a death benefit that is payable upon the death of one insured, mortality charges are reasonable mortality charges if they do not exceed the applicable mortality charges set forth in the 1980 Standard Ordinary Mortality Tables of the National Association of Insurance Commissioners for male or female insureds, without select factors (the "1980 C.S.O. Basic Mortality Tables").

(2) *Unisex tables and smoker/nonsmoker tables.* Mortality charges exceeding those specified in the 1980 C.S.O. Basic Mortality Tables are reasonable mortality charges if the contract using the charges has only one insured and is issued under a plan of insurance (as defined in paragraph (d)(5) of this section) that meets the following requirements:

(1) The nonforfeiture values for all contracts issued under the plan of insurance are determined under either 1980 C.S.O. Gender-Blended Mortality Tables (unisex tables) or 1980 C.S.O. Smoker and Nonsmoker Mortality Tables (smoker/nonsmoker tables), as appropriate; and

(ii) No contract issued under the plan of insurance calls for mortality charges which exceed the applicable charges specified in either the unisex or smoker/nonsmoker tables, as the case may be. That is, for any plan of insurance, if unisex tables are used to determine the mortality charges for female insureds, then the same tables must be used to determine the mortality charges for male insureds; if separate smoker tables are used to determine the mortality charges for smokers, then separate nonsmoker tables must be used to determine the mortality charges for nonsmokers.

(3) *Certain contracts based on 1958 C.S.O. table.* Mortality charges exceeding those specified in the 1980 C.S.O. Basic Mortality Tables are reasonable mortality charges if the contract using the charges has only one insured and is issued under a plan of insurance that meets all of the following requirements:

(i) The mortality charge is imposed under a contract that is not a modified endowment contract, within the meaning of section 7702A, determined using the applicable mortality charges derived from the 1958 standard ordinary mortality and morbidity table of the National Association of Insurance Commissioners (1958 C.S.O. table);

(ii) The contract was issued on or before December 31, 1988, pursuant to a plan of insurance or policy blank that was based on the 1958 C.S.O. table;

(iii) The mortality charges for the contract do not exceed the charges specified in the 1958 C.S.O. table; and

(iv) The plan or policy blank was approved by the appropriate state regulatory authority on or before October 21, 1988.

(d) *Definitions.* For purposes of this regulation the following terms have the following meaning.

(1) *Prevailing commissioners' standard tables.* The term "prevailing commissioners' standard tables" means the tables containing the higher of—

(i) The charges in the tables defined by section 807(d)(5)(A), or

(ii) The charges in any other tables that sections 807(d)(5)(B) or 807(d)(5)(C) allow to be used with respect to the contract for purposes of section 807(d)(2)(C). For this purpose the limitation of section 807(d)(5)(E) shall not apply.

(2) *Substantial risk.* "Substandard risk" means a risk of death that exceeds the standards set for normal or regular risks. Whether any particular insured person presents a substandard risk must be determined by taking into account all relevant facts and circumstances including the insured's medical history and laws that increase the potential unknown insurance risk with respect to an insured by limiting a company's ability to inquire into certain aspects of the insured's medical history.

(3) *Nonparticipating contract.* "Nonparticipating contract" means a contract other than a "variable contract" defined in section 817(d) that provides no right to policyholder to participate in the insurer's divisible surplus, if any, and that contains no charge reduction mechanism.

(4) *Charge reduction mechanism.* "Charge reduction mechanism" means any dividend or similar distribution to the holder of the contract in his or her capacity as holder. A charge reduction mechanism includes—

(i) Any amount paid or credited (including an increase in benefits) if the amount is not fixed in the contract but depends on the experience of the company or the discretion of management,

(ii) Any amount in the nature of the interest paid or credited to the extent the amount is in excess of interest determined at the minimum rate guaranteed under the contract,

(iii) Any amount by which the premium is reduced that (but for the reduction) would have been required to be paid under the contract, and

(iv) Any refund or credit based on the experience of the contract or group involved.

(5) *Plan of insurance.* "Plan of insurance" refers to those life insurance contracts sold by the company to a targeted market group which is not defined, directly or indirectly, on the basis of either the gender or the smoking habits of the insureds.

(e) *Effective date.* This section applies to life insurance contracts entered into on or after October 21, 1988.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91-15634 Filed 7-3-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-69-89]

RIN 1545-A012

Reasonable Mortality Charges for Life Insurance Contracts; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the required use of reasonable mortality charges for life insurance contracts.

DATES: The public hearing will be held on Wednesday, September 25, 1991, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, September 11, 1991.

ADDRESSES: The public hearing will be held in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (FI-69-89), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9236 or (202) 566-3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 7702(c)(3)(B)(i) of the Internal Revenue Code of 1986. The proposed regulations appear elsewhere in this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, September 11, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-15635 Filed 7-3-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program; Ownership and Control, Improvidently Issued Permits, and Permit Rescission Procedures

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

ACTION: Proposed rule; Reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions to a previously proposed amendment to the Kentucky permanent regulatory program (hereinafter, the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter dated June 3, 1991 (Administrative Record No. KY-1054), Kentucky has submitted additional information to both support and modify its proposed amendment dated January 24, 1991 (Administrative Record No. KY-1021). The proposed amendment includes changes to Kentucky's program relating to ownership and control, improvidently issued permits, and permit recission procedures and is in response to OSM's 732 letter dated May 11, 1989 (Administrative Record No. KY-885) and Director Harry M. Snyder's letter of November 19, 1990, letter to Secretary Carl H. Bradley (Administrative Record No. KY-1016). Accordingly, OSM is reopening and extending the public comment period on Kentucky's January 24, 1991, proposed amendment. OSM will consider the new information, the existing proposed amendment, and any previous comments when making a final decision on the proposed amendment.

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

DATES: Written comments must be received on or before 4 p.m. on July 22, 1991. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on July 15, 1991. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on July 10, 1991.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-7327

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-2828

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By a letter dated June 3, 1991, Kentucky resubmitted a program amendment to OSM containing proposed changes to 405 KAR 7:020 definitions, 405 KAR 8:010 general provisions for permits, 405 KAR 8:030 surface coal mining permits, 405 KAR 8:040 underground coal mining permits, and 405 KAR 12:020 enforcement (Administrative Record Number KY-1054). The proposed amendment responded to OSM's comment letter of March 25, 1991 (Administrative Record Number KY-1046) that commented on three issues found in the original submittal of January 28, 1991 (Administrative Record Number KY-1021). Also, the proposed amendment is in response to OSM's 732 letter dated May 11, 1989 (Administrative Record Number KY-885) and Director Harry M. Snyder's letter of November 19, 1990 to Secretary Carl H. Bradley (Administrative Record Number KY-1016). These proposed regulation changes correspond to changes in the federal regulations pertaining to the definition of ownership and control (53 FR 38868, October 3, 1988); permit information requirements related to ownership and control and reporting of violations (54 FR 8982, March 2, 1989); and improvidently issued permits and permit rescission (54 FR 18438, April 28,

1989). The following changes to program amendment KY-1021 have been made to resolve OSM's concerns of March 25, 1991.

1. The definition of "cessation order" at 405 KAR 7:020 Section 1(16) has been revised by inserting "under SMCRA."

2. 405 KAR 8:010 Section 25 (4)(c), pertaining to the right to request a formal hearing, has been rewritten.

3. 405 KAR 8:030 Section 1(4) and 8:040 Section 1(3) have been added, and Section 2(12) of each regulation has been revised, to incorporate by reference Kentucky's current application forms.

III. Public Comment Procedures

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

Written Comments

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

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on July 10, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

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

The public hearing will continue on the specified date until all persons scheduled to comment have been heard.

Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

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

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 26, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91-15940 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OPH-012-P]

RIN 0938-AE64

Health Maintenance Organizations; Conforming Health Maintenance Organization Rules to Statutory Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend federal qualification regulations relating to health maintenance organizations (HMOs). We would remove the requirement that at least one-third of the membership of an HMO's policymaking body or advisory board be members of the HMO and that medically underserved populations be represented, and require that the method of determining the contributions made by employers be reasonable and assure employees fair choice among health plans.

This proposed rule would conform the regulations to statutory requirements of the Health Maintenence Organization Amendments of 1988 (Pub. L. 100-517).

DATES: Comments will be considered if we receive them at the appropriate addresss, as provided below, no later than 5 p.m. on September 3, 1991.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OPH-012-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following adresses:

Room 309-G, Hubert H. Hmphrey Building, 200 Indepndence Ave., SW., Washington, DC., or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code OPH-012-P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Paul Kosco, (202) 619-2070.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIII of the Public Health Service Act (PHSA), known as the Health Maintenance Organization (HMO) law, contains the requirements that an entity must meet to receive Federal qualification as an HMO. Section 1301 of the PHSA describes an HMO as a public or private entity organized under the laws of any State that provides basic and supplemental health services to its members as prescribed under the PHSA. The HMO must also be organized and operated as required by the PHSA. The PHSA requirements include a provision that each HMO must have a fiscally sound operation, adequate provision against the risk of insolvency, and administrative and managerial arrangements satisfactory to the Secretary of Health and Human Services (the Secretary).

In our regulations at 42 CFR 417.141 through 417.144 we establish the federal qualification process, in a accordance with PHSA requirements, by which any entity, private or public, may seek to become a federally qualified HMO. The federal qualification process is aimed at assuring HCFA and the public that the HMO which serves them is fiscally sound, is well managed, and provides good quality health care in an economical manner.

II. Statutory Changes and Provisions of Proposed Regulations

A. Organizational Structure of All HMOs

Prior to the HMO amendments of 1988, section 1301(c)(5) of the PHSA provided that a private HMO was required to be organized in a manner that assured that at least one-third of the members of its policymaking body were members of the organization and that there was equitable representation on the policymaking body of members from any medically underserved population served by the HMO. Section 1310(c)(5) also required that a public HMO have an advisory board to its policymaking body that met the same requirements as a private HMO.

On October 24, 1988, the Health Maintenance Organization Amendments of 1988 (Pub. L. 100–517) amended the PHSA by repealing Section 1301(c)(5). The requirements of section 1301(c)(5) of the PHSA are incorporated in the regulations at § 417.107(f). Therefore, we proposed to delete § 417.107(f). We also propose to make two technical changes in paragraphs (h) and (i) of this section to update cross references and correct a typographical error.

B. Employers' Financial Contribution to HMOs

Section 1310 of the PHSA and our regulations at § 417.151 require certain employers to include federally qualified HMOs, as an option in their health benefits plans if the employees have received written requests from one or more federally qualified HMOs for inclusion in the health plan offerings. The requests at § 417.152.

Section 1310(a)(2) of the PHSA provides that if any employees of an employer are represented by collective bargaining representation and the employer makes an offer of membership in an HMO as a health benefit plan option and this offer is accepted by the employees' bargaining representative, then the employer must offer this option to all employees, regardless of whether the employee is represented by the collective bargaining representative or not. Section 1310(c) of the PHSA provides that no employer is required to pay more for health benefits than would be required by any prevailing collective bargaining agreement or any other legally enforceable contract between the employer and its employees for the provision of the health benefits. These requirements have been incorporated in our regulations at §§ 417.150 through 417.159.

In § 417.157(a)(1) of our regulations, we provide that an employer or its designee must include the HMO option in a health benefits plan on terms no less favorable, with respect to the employer's monetary contribution or designee's cost for the health benefit plan, than those on which the other alternatives are included. In § 417.157(a)(2) we interpreted this to mean that an employer's contribution must be equal dollar-for-dollar (up to, but not exceeding, the HMO's premium) to the largest contribution made by that employer on behalf of an individual employee to any non-HMO alternative health benefits plan offered by the employer.

Section 7(a)(2) of Public Law 100–517 amended section 1310(c) of the PHSA to require that if an employer offers a health benefits plan to its employees, the contributions made by the employer to the HMO on behalf of the employees must not financially discriminate against those employees who join an HMO.

The legislative history of Public Law 100–517 makes clear that, while Congress agreed that our current requirement in § 417.157(a)(2) that imposes a "dollar-for-dollar" test was consistent with existing law, Congress now intends that employers have more flexibility. Therefore, we propose to amend § 417.157(a) (1) and (2) to require that an employer's contribution on behalf of its employees who enroll in an HMO not financially discriminate against them and to incorporate the statutory directive that the employer's contribution be considered not to financially discriminate if the method for determining the contributions on behalf of all employees is reasonable and assures employees fair choice among health benefit plans. We believe the new standard that we propose would enhance employers' flexibility in determining their contributions to HMOs while protecting employees and HMOs from discriminatory and unfair contribution practices.

The committee reports accompanying Pub. L. 100–517 provided examples of some of the methods that an employer may choose in making contributions that would meet the legislative requirement. (See, for example, the report of the Senate Committee on Labor and Human Resources, Sen. Rep. No. 304, 100th Cong., 2nd Sess., 9–11 (1988).) We propose to incorporate these examples of methods in our regulations at § 417.157(a)(2). If an employer follows a cited method, we would not consider the contributions to be financially discriminatory.

Method 1: The employer may contribute to the HMO the same amount it contributes to the non-HMO alternative. For example, an employer that contributes $80 per month on behalf of each employee who joins an indemnity plan and pays the same amount on behalf of each employee who joins the HMO would not be discriminating.

Method 2: An employer's contributions may reflect the composition of enrollees according to attributes such as age, sex and family status, that are reasonable predictors of utilization, experience, costs, or risk. For each enrollee in a given class (based on those attributes), the employer would contribute an equal dollar amount, regardless of the plan that an employee chooses. To illustrate, an example of one such class might be single males under the age of 30. If the employer's cost for the class of single males under age 30 in an indemnity or self-insurance plan is $60, and the employer's contribution for HMO enrollment for each employee in that particular class were $60, there would be no discrimination. The employer would follow this methodology for each of the other classes. By calculating the contribution for HMO enrollment for each class in this way, the employer would determine its total payment on behalf of all employees enrolling in the HMO.

Method 3: If the employer's policy is that all employees contribute to their health benefits plan, an employer may require employees to make a reasonable minimum contribution to an HMO. We would consider an employee contribution that did not exceed 50 percent of the employee contribution to the principal non-HMO alternative plan to be reasonable in such a situation. To illustrate, assume for example, that the HMO's premium is $80, the alternative plan's premium is $100, and the employer contributes $80 on behalf of each employee who participates in the alternative plan. In such a case, employees who join the HMO have no out-of-pocket costs while employees who remain with the alternative plan would contribute $20. If the employer had a policy requiring a minimum employee contribution for health benefits, we would consider it reasonable for the employer to require employees who enroll in the lower cost plan, in this example the HMO, to pay an amount not in excess of $10, which is 50 percent of the employee contribution to the non-HMO alternative plan.

Method 4: An employer's contribution may be made on a percentage basis whereby the employer pays the same percentage of the premium of each health plan the employer offers. For example, if an employer paid 90 percent

of the premium of each non-HMO health plan the employer offered, we would find no discrimination if the employer pays 90 percent of the premium of the HMO alternative.

Method 5: Employers and HMOs may negotiate contribution arrangements which are mutually acceptable. In negotiating contribution arrangements with a federally qualified HMO, an employing entity may not insist on terms which would cause the HMO to violate any requirements in 42 CFR part 417, subpart A, such as community rating. Such negotiated arrangements would still have to meet the standards established by this provision.

HCFA is interested in soliciting comments on the above methods.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Date" section of this preamble, and, if we proceed with a final rule, we will respond to the comments in the preamble of that rule.

IV. Paperwork Reduction Act of 1980 (Pub. L. 96-511)

These regulations do not impose information collection or reporting requirements that are subject to review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

V. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

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

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all federally qualified HMOs and certain employers are considered as small entities. Medicare beneficiaries are not considered as small entities.

A number of issues have arisen in recent years regarding the requirements that the Federal Government imposes on HMOs that seek federal qualification and on the employers that offer federally qualified HMOs to their employees. In response to the criticism that the law's requirements are too rigid, the proposed changes would give HMOs additional flexibility in their corporate structure, making it easier for HMOs to become federally qualified. In response to criticism that the requirement in current regulations regarding employers' contributions to HMOs on behalf of their employees is financially discriminatory, the proposed changes would clarify for employers and level of contribution they must make on behalf of employees under their health benefits plans when employees enroll in HMOs as opposed to other health benefits options offered by the employer.

The changes proposed made by this rule would benefit both HMOs and certain employers; therefore, we have determined that this proposed rule would not produce any effects that will meet any of the criteria of E.O. 12291. For the same reasons, we have determined and the Secretary certifies that this proposed rule would not have a significant adverse effect on a substantial number of small entities. Thus, a regulatory impact analysis under E.O. 12291 and a regulatory flexibility analysis under the RFA are not required.

List of Subjects for 42 CFR Part 417

Administrative practice and procedure, Health maintenance organization (HMO), Medicare, Reporting and recordkeeping requirements.

42 CFR part 417 would be amended as follows:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(a)(2)(H), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 1395l(a)(1)(A), 1395x(s)(2)(H), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Public Law 97-248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701; and secs. 215 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e-17), unless otherwise noted.

2. Section 417.107 is amended by removing and reserving paragraph (f), and revising paragraphs (h) and (i) to read as follows:

§ 417.107 Organization and operation.

* * * * *

(f) [Reserved]

* * * * *

(h) *Quality assurance program.* Each HMO shall have an ongoing quality assurance program for its health services which:

(1) Stresses health outcomes to the extent consistent with the state of the art;

(2) Provides review by physicians and other health professionals of the process followed in the provision of health services;

(3) Uses systematic data collection of performance and patient results, provides interpretation of these data to its practitioners, and institutes needed change; and

(4) Includes writtent procedures for taking appropriate remedial action whenever, as determined under the quality assurance program, inappropriate or substandard services have been provided or services which should have been furnished have not been provided;

(i) *Certification of institutional providers.* Each HMO shall assure that institutional providers through which it provides basic and supplemental health services (1) are certified either under Title XVIII of the Social Security Act (Medicare) in accordance with subchapter E of this title or under Title XIX of the Social Security Act (Medicaid) in accordance with the regulations governing participation of providers in the Medical Assistance Program; or (2) in the case of hospitals, are either accredited by the Joint Commission on Accrediation of Healthcare Organizations or certified by Medicare; or (3) in the case of clinical laboratories (except for laboratories exempted from section 353 of the Public Health Service Act by paragraph (d)(2), (i), or (1) of that section), certified by Medicare or Medicaid or licensed under section 353.

* * * * *

3. Section 417.157 is amended by revising paragraphs (a) (1) and (2) to read as follows:

§ 417.157 Contributions for HMO option.

(a) *General principles.* (1) The contribution to a health maintenance organization must be in an amount which does not financially discriminate against an employee who enrolls in such an organization. A contribution by an

employing entity or designee does not financially discriminate if the method of determining the contribution is reasonable and is designed to assure employees fair choice among health plans. However, the employing entity or designee is not required to pay more for health benefits as a result of offering the option of membership in a qualified HMO than it would otherwise be required to pay for health benefits by a collective bargaining agreement or other employer-employee contract or public entity-employer contract in effect at the time the HMO is included in the health benefits plan.

(2) The following are methods that an employer may choose in making contributions that would not be considered financially discriminatory.

(i) An employer may contribute to the HMO the same amount, on a per employee basis, it contributes to the non-HMO alternative plan.

(ii) An employer's contributions may reflect the composition of enrollees according to attributes, such as age, sex, and family status, that are reasonable predictors of utilization, experience, costs, or risk. For each enrollee in a given class (based on those attributes), the employer contributes an equal dollar amount, regardless of the plan that an employee chooses.

(iii) If the employer policy is that all employees contribute to their health benefits plan, an employer may require employees to make a contribution to an HMO that does not exceed 50 percent of the employee contribution to the principal non-HMO alternative plan.

(iv) An employer's contribution may be made on a percentage basis whereby the employer pays the same percentage of the premium of each health plan the employer offers.

(v) Employers and HMOs may negotiate contribution arrangements which are mutually acceptable. In negotiating contribution arrangements with a federally qualified HMO, an employing entity or State or political subdivision may not insist on terms which would cause the HMO to violate any requirements in 42 CFR part 417. Any negotiated arrangements must meet the standard established by this paragraph.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplement Medical Insurance)

Dated: January 16, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: May 31, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-15900 Filed 7-3-91; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket Nos. 91-169, 85-38; FCC 91-183]

Cable Television Technical and Operational Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC invites comment on proposed rules mandating technical standards for cable television systems. This Notice is prompted by the decision of the appellate court in *City of New York* v. *FCC*, 814 F.2d 720 (D.C. Cir. 1987), *aff'd*, 486 U.S. 57 (1988), which found that the absence of federal quality standards for class II through IV cable channels, coupled with federal preemption of local authorities' ability to set such standards, interfered with local authorities' statutory obligations under section 626 of the Cable Communications Policy Act of 1984, 47 U.S.C. 546. This Notice is further prompted by the Commission's report to Congress on cable television, *Report in MM Docket No. 89-600*, 55 FR 32631, August 10, 1990 5 FCC Rcd 4962 (1990). This action is intended to improve cable television service to the public.

DATES: Comments must be submitted on or before September 17, 1991 and reply comments on or before October 17, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Barrett L. Brick, Cable Television Branch, Mass Media Bureau, (202) 632-7480 (legal issues), or John Wong, Cable Television Branch, Mass Media Bureau, (202) 254-3420 (technical issues).

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in MM Docket No. 91-169, FCC 91-183, adopted June 13, 1991, and released June 27, 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.

Summary of Notice of Proposed Rulemaking

1. In this notice of proposed rulemaking, the Commission proposes new technical standards for cable television systems. The intent of the proposed rules is to define a basic quality of service to be expected by cable subscribers, as stated by the Commission in Report in MM Docket No. 89-600, 5 FCC Rcd 4962 (1990). The Commission intends to apply these standards to all analog NTSC (National Television Systems Committee) video downstream signals, to further the efficiency of both franchising authorities and the Commission in meeting their statutory responsibilities. Technical standards for non-NTSC signals and for cable delivery of HDTV signals are not proposed. Systems serving fewer than 1000 subscribers would be exempted from the scope of the rules.

2. The Commission proposes to preempt local standards which differ from the Commission's. However, franchising authorities overseeing systems serving fewer than 1000 subscribers may set technical standards for such systems, so long as such standards are not more stringent than the Commission's.

3. The Commission proposes to eliminate obsolete guidelines such as that for specific channel boundary requirements. The Commission believes that it should be sufficient to require that the signals delivered be capable of being received by the subscriber's television set or frequency converter.

4. The Commission proposes to retain several of its current guidelines as standards, and to strengthen others in order to ensure delivery of an acceptable signal to cable subscribers. Notable in this latter category are the standard for the visual signal levels, which the Commission proposes be increased by 6 dB, and the visual signal to noise ratio (C/N), which the Commission proposes be increased by 7 dB. These proposed improvements would ensure that an acceptable, rather than a merely marginal, signal is delivered by cable systems to their subscribers. The Commission also proposes that cable systems be required to perform annual proof of performance tests, and increase the number of requisite test points from 3 to 6. This should encourage ongoing preventive maintenance on the part of cable

operators, and ensure that they remain in compliance with the Commission's rules.

5. The Commission also proposes standards for the color portion of the television signal, addressing differential gain, differential phase, and chrominance-luminance delay inequality tests. Systems meeting these standards will provide more vivid and higher quality pictures to subscribers.

6. Finally, the Commission proposes that the local franchising authorities be the initial locus of signal quality complaints, and that the Commission be involved directly in the resolution of complaints only in the face of problems or abuse which cannot be resolved locally.

Regulatory Flexibility Act Initial Analysis

7. *Reason for Action:* This action is taken in response to the decision in *City of New York* v. *FCC*, 814 F.2d 720 (D.C. Cir. 1987), *aff'd*, 486 U.S. 57 (1988), and pursuant to the Report in MM Docket No. 89-600, 5 FCC Rcd 4962 (1990).

8. *Objective of this Action:* The actions proposed in this Notice are intended to improve cable television service to the public.

9. *Legal Basis:* Authority for action as proposed for this Rule Making is contained in section 4(i) and section 303 of the Communications Act of 1934, as amended.

10. *Number and Type of Small Entities Affected by the Proposed Rules:* Approximately 30,000 existing cable systems of all sizes may be effected by the proposals contained in this decision.

11. *Reporting, Recordkeeping, and Other Compliance Requirements Inherent in the Proposed Rules:* The Commission proposes to require cable systems to comply with technical standards. The Commission proposes to expand the current annual proof of performance requirement to encompass these standards, and that a minimum of six points be tested. It is proposed that the resulting test data be maintained at the cable system operator's local business office for a minimum of five years.

12. *Federal Rules Which Overlap, Duplicate or Conflict with the rules:* None.

13. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives to the Action:* None. The proposed rules provide for exemption of small entities in situations in which compliance proves too burdensome. The Commission solicits comments on other alternatives.

Paperwork Reduction Act Implications

14. The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, Downtown copy Center, (202) 452-1422. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, telephone (202) 532-7513.

OMB Number: 3060-0289.

Title: Section 76.601 Performance Tests.

Action: Revision.

Respondents: Business and other for-profit (including small businesses).

Estimated Annual burden: 4,186 Respondents, 192,556 total, 46 hours per respondent.

Frequency of responses: Recordkeeping requirement, on occasion and annually.

Needs and Uses: This proposal would revise § 76.601 by expanding the annual proof of performance tests to encompass new technical standards. In addition, this proposal would require each cable system to maintain a current listing of the cable television channels which it delivers to its subscribers. This information would be used to ensure that an acceptable quality signal is being provided to cable subscribers, and to ensure that there are no signal leakage problems which could cause interference with over-the-air radio frequencies involving safety-of-life functions (i.e., police, fire, forestry, aeronautical, amateur radio). The list of channels would be used to determine what program services are carried on which class of cable channels.

15. This is a non-restricted notice and comment rule-making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR. 1.1202, 1.1203 and 1.1206 (a).

16. Pursuant to procedures set forth in § 1.415 and § 1.419 of the Commission's Rules, interested parties may file comments on or before September 17, 1991 and reply comments on or before October 17, 1991. Extensions of these time periods are not contemplated. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 230) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

17. As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth above. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of the notice, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164. 50 U.S.C. 601 *et seq.* (1981).

18. For further information concerning this proceeding, contact Barrett L. Brick, Cable Television Branch, Mass Media Branch, Mass Media Bureau, (202) 632-7480, with questions addressing legal, issues, or John Wong, Cable Television Branch, Mass Media Bureau, (202) 254-3420, with questions addressing technical issues.

List of Subjects in 47 CFR Part 76

Cable television.

PART 76—[AMENDED]

For the reasons set out in the preamble, title 47, chapter I, part 76 of the Code of Federal Regulations is proposed to be amended as follows:

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.

1. Section 76.601 is proposed to be amended by revising paragraph (b), adding paragraphs (c), (d) and (e), and by removing the concluding note to read as follows:

§ 76.601 Performance tests.

* * * * *

(b) The operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

(c) The operator of each cable television system shall conduct complete performance tests of that system at least once each calendar year (at intervals not to exceed 14 months) and shall maintain the resulting test data on file at the operator's local business office for at least five (5) years. The test data shall be made available for inspection by the Commission or the local franchisor on request. The performance tests shall be directed at determining the extent of which the system complies with all the technical standards set forth in § 76.605(a). The tests shall be made on each analog NTSC downstream video channel carried on the system pursuant to § 76.605(a), and shall include measurements made at no less than six widely separated points within each mechanically continuous set of cables within the cable television system. Within each mechanically continuous set of cables, at least two measurement points shall be representative of terminals most distant from the system input in terms of cable distance. The measurements may be taken at convenient monitoring points in the cable network:

Provided, That data shall be included to relate the measured performance of the system as would be viewed from a nearby subscriber terminal. An identification of the instruments, including the makes, model numbers, and the most recent date of calibration, a description of the procedures utilized, and a statement of qualification of the person performing the tests shall be set forth.

(d) Successful completion of the performance tests required by paragraph (c) of this section does not relieve the system of the obligation to comply with all pertinent technical standards at all subscriber terminals. Additional tests, repeat tests, or tests involving specific subscriber terminals may be required by the Commission or the local franchisor to secure compliance with the technical standards.

(e) The provisions of paragraphs (c) and (d) of this section shall not apply to any cable television system having fewer than 1,000 subscribers:

Provided, however, That any cable television system using any frequency spectrum other than that allocated to over-the-air television and FM broadcasting (as described in § 73.603 and § 73.201 of this chapter is required to conduct all tests, measurements, and monitoring of signal leakage that are required by this subpart. Compliance with the monitoring, logging and the leakage repair requirements of § 76.614 combined with the maintenance of the leakage log for a period of five (5) years will satisfy the leakage tests, measurements, and monitoring requirements of this section.

2. Section 76.605 is proposed to be amended by revising paragraphs (a) and (b), by revising Note (1), by redesignating Note (2) as Note (3) and by adding a new Note (2) to read as follows.

§ 76.605 Technical standards.

(a) The following requirements apply to the performance of a cable television system as measured at any subscriber terminal with a matched impedance at the termination point or at the headend of the cable television system as noted. The requirements are applicable to each analog NTSC video downstream cable television channel in the system:

(1) The cable television channels delivered to the subscriber's terminal shall be capable of being received and displayed by TV broadcast receivers used for the off-the-air reception of TV broadcast signals, as authorized under part 73 of this chapter.

(2) The aural center frequency of the aural carrier must be 4.5 MHz ± 5 KHz above the frequency of the visual carrier.

(3) The visual signal level, across a terminating impedance which correctly matches the internal impedance of the cable system as viewed from the subscriber terminal, shall be not less than 2 millivolts across an internal impedance of 75 ohms (6 dBmV). At other impedance values, the visual signal level shall be 2 times the square root of 0.0133(z) millivolts, where z is the appropriate impedance value.

(4) The visual signal level on each channel shall not vary more than 12 decibels within any six month interval which must include tests performed during a 24-hour period in July or August and a 24-hour period in January or February, and shall be maintained within:

(i) 3 decibels of the visual signal level of any visual carrier within 6 MHz nominal frequency separation;

(ii) 12 decibels of the visual signal level on any other channel;

(iii) A maximum level such that signal degradation due to overload in the subscriber's receiver does not occur.

(5) The rms voltage of the aural signal shall be maintained between 13 and 17 decibels below the associated visual signal level.

(6) The frequency response of the system shall be within a range of ±2 decibels across the 6 MHz band of frequencies of the cable television channel.

(7) The ratio of RF visual signal level of system noise, and of RF visual signal level of any undesired co-channel television signal operating on proper offset assignment, shall not be less than 43 decibels. However, for class I cable television channels, this requirement is applicable only to:

(i) Each signal which is delivered by a cable television system to subscribers within the predicted Grade B contour for that signal;

(ii) Each signal which is first picked up within its predicted Grade B contour;

(iii) Each signal that is first received by the cable television system by direct video feed from a TV broadcast station, a low power TV station, or a TV translator station.

(8) The ratio of visual signal level to the rms amplitude of any coherent disturbances such as intermodulation products, second and third order distortions or discrete-frequency interfering signals not operating on proper offset assignments shall be as follows:

(i) The ratio of visual signal level to coherent disturbances shall not be less than 53 decibels for noncoherent channel cable systems; or

(ii) The ratio of visual signal level to coherent distrubances shall not be less than 47 decibels for coherent channel cable systems.

(9) The terminal isolation provided to each subscriber terminals shall not be less than 18 decibels, and shall be sufficient to prevent reflections caused by open-circuited or short-circuited subscriber terminals from producing visible picture impairments at any other subscriber terminal.

(10) The peak-to-peak variation in visual signal level caused by undesired low frequency disturbances (hum or repetitive transients) generated within the system, or by inadequate low

frequency response, shall not exceed 3 percent of the visual signal level.

(11) The chrominance-luminance delay inequality or chroma delay, which is the change in delay time of the chrominance component of the signal relative to the luminance component after passing through the system, shall be within 150 nanoseconds.

(12) The following requirements apply to the performance of the cable television system as measured at the processing facilities or headend of the system:

(i) The differential gun for the color subcarrier of the television signal, which is measured as the difference in amplitude between the largest and smallest segments of the chrominance signal, divided by the largest and expressed in percent, shall not exceed ±20%.

(ii) The differential phase for the color subcarrier of the television signal, which is measured as the largest phase difference in degrees between each segment of the chrominance signal and reference segment, the segment at the pedestal level of O IRE, shall not exceed ±5 degrees.

(iii) As an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in § 76.609(h) and shall be limited as follows:

Frequencies	Signal leakage limit (micro-volts/meter)	Distance in meters (m)
Less than and including 54 MHz, and over 216 MHz	15	30
Over 54 up to and including 216 MHz	20	3

(b) Cable television systems distributing signals by using methods such as nonconventional coaxial cable techniques, noncoaxial copper cable techniques, specialized coaxial cable and fiber optical cable hybridization techniques or specialized compression techniques or specialized receiving devices, and which, because of their basic design, cannot comply with one or more of the technical standards set forth in paragraph (a) of this section, may be permitted to operate: *Provided*, That an adequate showing is made which establishes that the public interest is benefited. In such instances, the Commission may prescribe special technical requirements to ensure that subscribers to such systems are provided with an equivalent level of good quality service.

Note 1: State or local franchising authorities may incorporate the requirements in § 76.605(a) into a cable system's franchise. The Commission will not apply these requirements to cable systems serving fewer than 1000 subscribers, although franchising authorities may apply these or less stringent requirements to such cable systems.

Note 2: For systems serving areas, in whole or in part, with fewer than [ ] homes per mile, the system may negotiate with its local franchising authority for standards less stringent than those in §§ 76.605(a)(3), 76.605(a)(7), 76.605(a)(8), and 76.605(a)(10). Any such agreement shall be reduced to writing and accompany the system's proof of performance records.

* * * * *

3. Section 76.609 is proposed to be amended by revising the last sentence in paragraph (e), revising the first sentence in paragraph (h), and revising paragraph (i) to read as follows:

§ 76.609 Measurements.

* * * * *

(e) * * * Alternatively, measurements made in accordance with the NCTA Recommended Practices for Measurements on Cable Television system, 2nd edition, November 1989, on noise measurement may be employed.

* * * * *

(h) Measurements made to determine the field strength of the signal leakage emanated by the cable television system shall be made in accordance with standard engineering procedures. * * *

(i) Measurements made to determine the differential gain, differential phase, and the chrominance-luminance delay inequality (chroma delay) shall be made in accordance with the NCTA Recommended Practices for Measurements on Cable Television Systems, 2nd edition, November 1989, on these parameters.

Federal Communications Commission.

William F. Caton,

Assistant Secretary.

[FR Doc. 91-15749 Filed 7-3-91; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 56, No. 129
Friday, July 5, 1991

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 28, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provides the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Revision

• Food and Nutrition Service
Food Coupon Deposit Document, FNS-521, On occasion, Businesses or other for-profit; Federal agencies or employees; 600,000 responses; 5,810 hours, David E. Saarela (612) 370-3320.

Extension

• Economic Research Service
Survey of State Farm Credit Programs, Annually, State or local governments; 73 responses; 31 hours, Patrick J. Sullivan (202) 219-0719.

• Forest Service
Application for the Senior Community Service Employment Program, FS-1800-21b, On occasion; Annually, Individuals or households; 6,500 responses; 1,083 hours, Guanda Veney-Fitch (703) 235-8855.

• Agricultural Marketing Service
Domestic Dates Produced or Packed in Riverside County, California, Marketing Order 987, FV-191 & FV-192, Recordkeeping; On occasion; Monthly; Annually; Biennially, Farms; Small businesses or organizations; 453 responses; 201 hours, Patrick Pacnett (202) 475-3862.

New Collection (Emergency)

• Rural Electrification Administration
Pre- and Post-Loan Policies and Procedures for Guaranteed Electric and Telephone Loans, On occasion; Quarterly, Small businesses or organizations; 731 responses; 2,138 hours, Paul Marsden (202) 382-9551.

Reinstatement

• Agriculture Cooperative Service
Marketing and Transportation of Grain by Local Cooperatives, On occasion, Businesses or other for-profit; 1,050 responses; 525 hours, Charles Hunley (202) 245-5430.

New Collection

• Agricultural Stabilization and Conservation Service
7 CFR Part 780—Appeal Regulations, On occasion, Farms; 50,000 responses; 100,000 hours, Carolyn Burchett (202) 447-5533.

• Federal Crop Insurance Corporation
Random Path Appraisal Worksheet, FCI-74-A, On occasion, Individuals or households; Farms; 700 responses; 1,400 hours, Bonnie L. Hart (202) 245-5046.

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 91-16001 Filed 7-3-91; 8:45 am]
BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

[Docket No. 91-089]

Receipt of Permit Application for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release a genetically engineered organism into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: A copy of the application referenced in this notice, with any confidential business information deleted, is available for public inspection in Room 1141, South Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of this document by writing to the person listed under "**FOR FURTHER INFORMATION CONTACT.**".

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Specialist, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release a genetically engineered organism into the environment:

Applicant No.	Applicant	Date received	Organism	Field test location
91-151-01	Monsanto Agricultural Company	05-31-91	Soybean plants genetically engineered to express tolerance to the herbicide glyphosate.	Puerto Rico.

Done in Washington, DC, this 28th day of June 1991.

James W. Glosser,

Administrator Animal and Plant Health Inspection Service.

[FR Doc. 91-16003 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 91-091]

Receipt of Permit Application for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release a genetically engineered organism into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: A copy of the application referenced in this notice, with any confidential business information deleted, is available for public inspection in Room 1141, South Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of this document by writing to the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Specialist, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release a geneticaly engineered organism into the environment:

Application	Applicant	Date received	Organism	Field test location
91-156-01	University of Florida	06-05-91	Tobacco plants genetically engineered to express the tobacco etch virus (TEV) coat protein gene.	Alachua County, Florida.

Done in Washington, DC, this 28th day of June 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-16004 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 91-086]

Availability of Environmental Assessments and Findings of No Significant Impact Relative To Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that five environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The assessments provide a basis for the conclusion that the field testing of these genetically engineered organisms will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on these findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th 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. Clayton Givens, Program Assistant, Biotechnology Permits, Biotechnology, Biologics, and Environmental protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write Mr. Clayton Givens at this same address. The documents should be requested under the permit number listed below.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a permit for the importation or interstate

movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit applications, APHIS assessed the impact on the environment of releasing the organisms under the conditions described in the permit applications. APHIS concluded that the issuance of the permits listed below will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessments and findings of no signifcant impact, which are based on data submitted by the applicants as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the filed tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of the following permits to allow the field testing of genetically engineered organisms:

Permit No.	Permittee	Date	Organism	Field test location
91-052-06	Pioneer Hi-Bred International, Incorporated.	05-15-91	Corn plants genetically engineered to confer tolerance to the herbicide chlorsulfuron..	Polk County, Iowa.
91-025-05	Rohm and Haas Company	05-21-91	Tobacco plants genetically express a deltaendotoxin protein from *Bacillus thuringiensis* subsp. *kurstaki*..	Johnston County, North Carolina.
91-039-01, renewal of Permit 89-257-04, issued on 02-21-90.	U.S. Department of Agriculture, Argicultural Research Service.	05-22-91	Potato plants genetically engineered to contain a marker gene..	Bingham County, Idaho.
91-050-01	Calgene, Incorporated	05-22-91	Tomato plants genetically engineered to contain an antisense polygalacturonase (PG) gene or the *tmr* developmental gene..	Solano & Yolo Counties, California.
91-051-01	Monsanto Agricultural Company	05-22-91	Soybean plants genetically engineered to confer tolerance to the herbicide glyphosate..	Terrell County, Georgia; Piatt County, Illinois; Hamilton County, Indiana; Jasper County, Lowa; Oldham County, Kentucky; Saunders Country, Nebraska; Franklin County, Ohio; & Hardeman County, Tennessee.

Done in Washington, DC, this 28th day of June 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-16002 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Rocky Mountain Region; Exemption of Pilger Mountain Storm Timber Salvage From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notice; exemption of certain recovery projects from administrative appeals.

SUMMARY: Pursuant to 36 CFR 217.4(a)(11), the Regional Forester for the Rocky Mountain Region has determined there is good cause to exempt from administrative appeal salvage sales related to storm damaged timber in the Pilger Mountain Salvage Project Area on the Black Hills National Forest.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT: John P. Halligan, Appeals and Litigation Coordinator, Rocky Mountain Region, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Lakewood, CO 80225, (303) 236-9430 or Phil James, Acting Forest Supervisor, Black Hills National Forest, RR 2, Box 200, Custer, SD 57730, (605) 673-2251.

SUPPLEMENTARY INFORMATION: The Forest Service has an obligation to rehabilitate National Forest System lands and recover forest resources damaged by severe wind storms. With full consideration given to environmental values; specific management objectives for resource recovery and rehabilitation are to:

1. Rehabilitate and enhance deer winter range;
2. Salvage blowdown timer;
3. Remove trees susceptible to bark beetle attack; and
4. Treat fuel concentrations to reduce fire hazard.

Environmental analysis of proposed actions related to the rehabilitation and resource recovery activities are currently underway. Pursuant to 40 CFR 1501.7, scoping is now in progress. Scoping is being conducted by the Elk Mountain District Ranger to determine the issues to be addressed in the environmental analysis.

The Elk Mountain Ranger District is expected to complete the environmental analysis and documentation in June 1991. Decisions are expected at that time. The environmental documents will be available for public review at the Elk Mountain Ranger District Office, 640 S. Summit, Newcastle, WY 82701.

Background

On May 11, 1991, the Pilger Mountain area experienced severe thunderstorms. Tornadoes were spotted near the project area and throughout the southern Black Hills. As a result, about 1,800 acres incurred blowdown with approximately 1,000 acres suffering heavy blowdown. The majority of the blowdown occurred in steep inaccessible topography. Approximately 150 acres, however, are salvageable with groundbased logging systems.

The area where rehabilitation and forest resource recovery activities are proposed is located in Custer County, approximately fifteen miles north of Edgemont, South Dakota.

Planned Actions

The Elk Mountain Ranger District interdisciplinary team surveyed the blowdown area and concluded that a loss of timber values would occur if the timber was not removed soon. At the same time, the team found that an opportunity existed to enhance and rehabilitate deer winter range. Because of the extensive damage to the timber resources, there is a need to commence timber salvage harvesting as quickly as possible. The total estimated volume of

down timber to be offered for sale is approximately 100 thousand board feet (MBF) on approximately 100 acres of National Forest System land. No road construction would be needed to accomplish the salvage.

A detailed inventory of the timber has not been completed to date. All of the trees to be salvaged are ponderosa pine with an average diameter of 10 inches. Volume losses currently are less than 15 percent. Volume loss due to rot, insects, and drying weather will accelerate beginning in July 1991, and by September 1991, it is expected that timber salvage would no longer be practical. Salvage and rehabilitation activities provide an opportunity to enhance wildlife habitat and reduce fire hazard in addition to salvaging blowdown timber.

In order to take maximum management advantage of this situation, rehabilitation and timber salvage sale operations designed to enhance big game winter range, reduce wildfire hazard, and promote forest resource recovery must be undertaken as quickly as possible. Therefore, I am exempting the sale from appeal under provisions of 36 CFR 217 if, through environmental analysis, it is found these actions are feasible.

The salvage sale to which this exemption applies will be identified in any documentation as part of the Pilger Mountain Salvage.

Dated: June 26, 1991.

Tom L. Thompson,

Acting Regional Forester.

[FR Doc. 91-15963 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-11-M

Alaska Pulp Corporation Long-Term Timber Sale, Kelp Bay Project Area; Tongass National Forest, Baranof Island, Alaska

AGENCY: USDA, Forest Service.

ACTION: Notice of Public Hearings for subsistence testimony.

SUMMARY: The Forest Service will hold Open Houses and Public Hearings for subsistence testimony regarding the Draft Environmental Impact Statement for Kelp Bay on August 6 and 8, 1991. The Hearings are intended to meet Subsistence Evaluation requirements outlined in section 810, Alaska National Interest Lands Conservation Act (ANILCA).

DATES AND LOCATIONS: An Open House and Public Hearing will be held in Angoon, Alaska on August 6, 1991 and in Sitka, Alaska on August 8, 1991. The Open Houses will be held from 3 to 6 p.m. and the Public Hearings from 7 to 9 p.m. The Open House and Public Hearing in Angoon will be held in the Community Center. The Open House and Public Hearing in Sitka will be held in the Centennial Building. Send requests for further information or written testimony to Janis Burns Buyarski, Planning Team leader, USDA, Forest Service, 204 Siginaka Way, Sitka, Alaska 99835. Written testimony must be received by the date of the Public Hearings.

SUPPLEMENTARY INFORMATION: The ANILCA section 810 subsistence evaluation and findings are detailed in the Draft Environmental Impact Statement (DEIS). The DEIS was released on June 17, 1991 and comments concerning the DEIS must be received by August 27, 1991. Copies of the DEIS are available from Janis Burns Buyarski, Planning Team Leader, 204 Siginaka Way, Sitka, Alaska 99835. The Hearings are designed to receive testimony from individuals, agencies, and organizations on the alternatives proposed in the Draft Environmental Impact Statement for the Kelp Bay Project Area, and how these alternatives may potentially affect users of subsistence resources of the Kelp Bay area.

Dated: June 26, 1991.

Gary A. Morrison,

Forest Supervisor, Chatham Area—Tongass NF.

[FR Doc. 91-15881 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-11-M

Forest Legacy Program Guidelines

AGENCY: Forest Service, USDA.

ACTION: Notice of availability; request for comment.

SUMMARY: The Forestry Title of the 1990 Farm Bill authorized a new Forest Legacy Program, the purpose of which is to identify and protect environmentally important private forest lands that are threatened by present or future conversion to nonforest uses. The Forest Service hereby gives notice that the draft guidelines are now available for public review and comment for implementing the Forest Legacy Program in or soon after November 1991 dependent upon appropriations for Fiscal Year 1992.

DATES: Comments must be received in writing by August 19, 1991.

ADDRESSES: Single copies of the draft guidelines for implementing the Forest Legacy Program may be obtained by writing the Director, Cooperative Forestry Staff (CF), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

Written comments should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jared Wolfe, Cooperative Forestry Staff, (202) 453-9375 or David Sherman, Lands Staff, (202) 453-9362.

SUPPLEMENTARY INFORMATION: Section 1217 of title XII of the Food, Agriculture, Conservation and Trade Act of 1990 (104 Stat. 3528), known as the 1990 Farm Bill, directs the Secretary of Agriculture to establish a Forest Legacy Program in cooperation with State, regional, and other units of government. The Act authorizes the Secretary to acquire from willing landowners lands and interests therein, including conservation easements and rights of public access, for Forest Legacy purposes. This authority is in addition to authorities granted under section 6 of the Act of March 1, 1911 (16 U.S.C. 515), and section 11(a) of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428a(a)).

The Secretary is directed to establish several initial programs in Fiscal Year 1992. One of the initial programs will be in New York, New Hampshire, Vermont, and Maine. This initial program includes, but is not limited to, the Northern Forest Lands Study area. Another initial program will be in Washington State. Additional programs may be established in other regions of the country upon the preparation of an assessment of the need for such programs.

To implement the initial programs within Fiscal Year 1992, the agency has developed draft guidelines consisting of (1) eligibility criteria for determining which geographic areas may be designated as Forest Legacy Areas under the initial programs; (2) procedures for analyzing, documenting, and attaining public involvement in the assessment of the need for a Forest Legacy Program; and (3) procedures for setting up a Forest Legacy Program in States.

The guidelines will be used by State agencies, State Forest Stewardship Coordinating Committees, and the Forest Service in implementing the initial programs and testing the procedures for implementation of the program nationwide.

The draft implementation guidelines have been submitted for review and comment by the Governors through State forestry agencies, and to land trusts, conservation organizations, forest industry groups, landowners, and other organizations interested in the Forest

Legacy Program. The public is also invited to comment on the draft.

Dated: June 28, 1991.

George M. Leonard,

Associate Chief.

[FR Doc. 91-16069 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

John's Brook Critical Area Treatment RC&D Measure, New York

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 1500); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the John's Brook Critical Area Treatment RC&D Measure, Essex County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, room 771, Syracuse, New York 13261-7248, telephone (315) 423-5521.

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 Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

This measure concerns a plan to provide for reducing critical erosion along the south bank of John's Brook, 300 feet west of the Route 73 bridge in the Village of Keene Valley, Town of Keene, which results from storm water runoff and spring snow melt. The integrity of adjacent residential property and the Route 73 bridge in the village will be assured through the installation of project measures. The planned works of improvement includes shaping the existing bank, installing filter fabric and the placing of rock riprap against the sloping face, and seeding and mulching of all disturbed areas.

The Notice of 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 is on file and may be reviewed by contacting Paul Dodd.

No administration 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. 10.901—Resource Conservation and Development—and is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: June 24, 1991.

Paul A. Dodd,

State Conservationist.

[FR Doc. 91-15964 Filed 7-3-91; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Economic Development Administration, Commerce.

Title: Quarterly Report on Guaranteed Loans.

Form Number: Agency Form Ed-700; OMB—0610-0010.

Type of Request: Extension of the expiration date.

Burden: 25 respondents; 30 hours.

Average Hours per Response: .33 hours.

Needs and Uses: to provide the current status of a loan guaranteed by the EDA and serves as the basis for possible remedial action required to safeguard the Government's interest 13 CFR 306.32.

Affected Public: Loan guarantee recipients connected with EDA projects.

Frequency: Quarterly.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 1, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-16027 Filed 7-3-91;8:45am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Economic Development Administration, Commerce.

Title: Application for Financial Assistance.

Form Number: Agency Form ED-201; OMB—0610-0025.

Type of Request: Extension of the expiration date.

Burden: 20 respondents; 2,000 hours.

Average Hours per Response: 100 hours.

Needs and Uses: To provide basic information required from borrowers and lenders seeking Government guarantee of a business a business loan.

Affected Public: Borrowers and lenders connected with EDA projects.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 1, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-16028 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-CW-M

Minority Business Development Agency

Business Development Center Applications: Corpus Christi, TX

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $184,260 in Federal funds, and a minimum of $32,516 in non-Federal (cost sharing) contributions from December 1, 1991 to November 30, 1992. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Corpus Christi, Texas geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Government-wide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is August 10, 1991. Applications must be postmarked on or before August 10, 1991. A pre-bid conference will be held for all interested applicants on July 24, 1991 at 10 a.m. in the Corpus Christi Chamber of Commerce's Main Conference Room at 1201 N. Shoreline Drive.

Note: Please mail completed application to the following address: San Francisco Regional Office, 221 Main Street, room 1280, San Francisco, California 94105.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: June 28, 1991.

Melda Cabrera,

Dallas Regional Director, Regional Office.

[FR Doc. 91-16032 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Atlantic Mackerel, Squid, and Butterfish Fisheries; Correction

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

ACTION: Notice of approval of an amendment to a fishery management plan; correction.

SUMMARY: This document corrects the notice of approval of Amendment 3 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries that was published June 20, 1991 (56 FR 28372). An explanatory phrase was inadvertently omitted from the Northeast Fisheries Center's clarification of the overfishing definition for Atlantic mackerel.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Resource Management Specialist, 508-281-9273.

In FR Document 91-14656 in the issue of June 20, 1991, beginning on page 28372, the following correction is made: On page 28373, in the second column, the second paragraph line 5 after "clarification:" insert a comma after "That," and add the following explanatory phrase: "in the Atlantic mackerel overfishing definition," * * *

Dated: June 28, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-15952 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of Public Display Permit No. 730.

SUMMARY: On Tuesday, February 26, 1991, notice was published in the **Federal Register** (56 FR 7835) that an application (P111C) had been filed by the Chicago Zoological Society (CZS), Chicago Zoological Park (Brookfield Zoo), 3300 Golf Rd., Brookfield, IL 60513, (708) 485-0263. A public display permit was requested to obtain and maintain 22 Atalantic bottlenose dolphins (*Tursiops truncatus*), from captive populations, for public display purposes including catptive breeding at the Hawk's Cay facility in Marathon, Florida.

Notice is hereby given that on June 27, 1991, as authorized by the provisions of the Marine Mammal Protection Act, the National Marine Fisheries Service issued a Permit to the applicant referenced above to obtain and maintain 16 Atlantic bottlenose dolphins, from captive populations, for public display purposes including captive breeding, at the Hawk's Cay facility in Marathon, Florida subject to the terms and conditions set forth therein.

The Permit is available for review by appointment by interested persons in the following offices:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Room 7330, SSMC1, Silver Spring, Maryland 20910, (301) 427-2289;

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893-3141; and

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930, (508) 281-9300.

Dated: June 27, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-15876 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service NOAA, Commerce.

ACTION: Modification No. 3 to Permit No. 598 (P77#28).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 598 was issued to the Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way NE., Bin C15700, Seattle, Washington 98115-0070, on July 17, 1987 (52 FR 27697) and subsequent Modifications No. 1 and No. 2, is further modified as follows:

Add new paragraphs to section A.7:

"(5) Authorization is granted to use the drug Telazol (1.2-1.5 mg/kg) to chemically restrain large adult male fur seals too large to be handled safely for the purpose of the removal of entangling marine debris and the attachment of telemetry instruments. The animals will be remotely injected using an air projectile system which delivers a 5 or 10 cc syringe with a 2 × 60mm collared needle."

"(6) In the event that any animal is injured or suffers accidental mortality during chemical restraint of animals on San Miguel Island, the Permit Holder shall provide a report to the Southwest Regional Office within two weeks. The report shall include a description of the events surrounding the incident and identifications of steps that will be taken to reduce the potential for additional occurrences. Authorization to continue the chemical restraint of animals on San Miguel Island will be determined by the Regional Director, Southwest Region."

All other conditions currently contained in the permit and modifications remain in effect.

The effective date of this modification is June 27, 1991.

Documents submitted in connection with the above modifications are available for review, by appointment, by interested persons in the following offices:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, SSMC1, room 7324, Silver Spring, Maryland 20910 (301/427-2289);

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802 (907/586-7221);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115-0070 (206/526-6150);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731-7415 (213/514-6196); and

Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole St., room 106, Honolulu, Hawaii 96822-2396 (808/943-1221).

Dated: June 27, 1991.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 91-15877 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permit Modification: Dr. Thomas F. Albert (P282A); Modification No. 4 to Permit No. 519

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) and § 220.24 of the regulations on endangered species (50 CFR parts 217-222), Scientific Research Permit No. 519 issued to the Dr. Thomas F. Albert, Department of Conservation and Environmental Protection, North

Slope Borough, P.O. Box 69, Barrow, Alaska 99723, on August 23, 1985 (59 FR 35286), modified on January 11, 1989 (54 FR 1758) and August 22, 1990 (55 FR 35164) is further modified in the following manner:

Section A.1.c. is changed to read:

"1. Specimen materials may be collected from the following number of subsistence-harvested animals:

c. 40 beluga whales (*Delphinapterus leucas*)"

Section B.5 is changed to read:

"5. This permit is valid with respect to the taking authorized herein until December 31, 1992."

This modification becomes effective upon publication in the **Federal Register**.

Documents pertaining to the Permit and modifications are available for review in the following Offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802.

Dated: June 27, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91-15878 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Revision to Public Meeting Agenda

AGNECY: National Marine Fisheries Service, NOAA, Commerce.

An agenda, previously published in the **Federal Register** at 56 FR 29631, on June 28, 1991, for the Gulf of Mexico Fishery Management Council's (Council) Reef Fish Management Committee public meeting in Key West Florida, on July 8, 1991, has been revised. All other information previously published remains unchanged. The revision is as follows:

Committees: The Reef Fish Management Committee (meeting from 2 p.m. to 5 p.m., July 8, 1991) and the Council will consider adjusting the 1991 commercial grouper quota. Testimony on this issue is scheduled before the Council beginning at 10 a.m., on July 11, 1991.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone (813) 228-2815.

Dated: July 1, 1991.

David S. Crestin,

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

[FR Doc. 91-15996 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council Public Teleconference

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council will hold a teleconference on July 3, 1991, at 1 p.m., Alaska Standard Time. The Council will discuss priority bycatch issues to be analyzed for initial review in September. Members of the public interested in listening in on the conference may contact the Council office on (907) 271-2809 for conference locations.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Dated: July 1, 1991.

David S. Crestin,

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

[FR Doc. 91-16067 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

[Docket No. 910235-1159]

Notice of Termination of Status of International Depositary Authority Under Budapest Treaty

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that In Vitro International, Inc.'s status as an international depositary authority is terminated effective September 25, 1991.

ADDRESSES: Questions should be submitted to H. Dieter Hoinkes, Office of Legislation and International Affairs, Box 4, Patent and Trademark Office, Washington, DC 20231.

FOR FURTHER INFORMATION CONTACT: H. Dieter Hoinkes, Office of Legislation and International Affairs, (703) 557-3065.

SUPPLEMENTARY INFORMATION: Since November 30, 1983, In Vitro International, Inc. (IVI) of Linthicum, Maryland, has been recognized as an international depositary authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

The Patent and Trademark Office has received a letter from Dr. Rex A. D'Agostino, President of IVI, dated May 24, 1991, stating that IVI can no longer continue to perform its functions as an international depositary authority under the Budapest Treaty.

By letter dated June 25, 1991, the Patent and Trademark Office has notified the Director General of the World Intellectual Property Organization that "the United States withdraws its declaration of assurances made on behalf of IVI on September 9, 1983". As a consequence, the termination of the status of IVI as an international depositary authority takes effect on September 25, 1991.

All deposits stored with IVI under the Budapest Treaty were transferred on June 20, 1991, to a substitute authority, which is the American Type Culture Collection (ATCC), 12301 Parklawn Drive, Rockville, Maryland 20852, (Telephone No. (302) 881-2600). All mail or other communications addressed to IVI regarding those deposits, including all files and other relevant information, have also been transferred to ATCC. In its capacity as a substitute authority, ATCC has agreed to store all deposits transferred from IVI for an initial period of not less than three months from the date of this notice. Patent owners and applicants who wish to preserve their date of original deposit must contact ATCC within three months from the date of this notice to make arrangements to pay ATCC's fee for continued maintenance and storage of their deposits past the initial storage period. ATCC will not accept responsibility for continued storage of those deposits in respect of which depositors have failed to make appropriate arrangements.

For further information, contact H. Dieter Hoinkes, Office of Legislation and International Affairs, Box 4, Patent and Trademark Office, Washington, DC 20231; telephone (703) 557-3065.

Dated: June 27, 1991.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 91-15873 Filed 7-3-91; 8:45 am]

BILLING CODE 3510-16-M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for Thursday, 25 July 1991 at 10 a.m. in the Commission's offices in the Pension Building, suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the Commission offices (202-504-2200) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC 26 June 1991.

Charles H. Atherton,

Secretary.

[FR Doc. 91-15965 Filed 7-3-91; 8:45 am]

BILLING CODE 6330-01-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade: Proposed Amendments Relating to the U.S. Origin of Products Deliverable on the Corn, Soybean, Wheat, Soybean Oil and Soybean Meal Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has submitted proposed amendments to its corn, soybean, wheat, soybean oil and soybean meal futures contracts.[1] The proposed amendments for each of these contracts would specify that, effective September 1, 1992, upon written request by a taker of delivery at the time loading orders are submitted, the delivery warehouseman or regular shipper, as applicable, shall certify in writing to the taker of delivery, on the day that the transportation conveyance is loaded, that the product is of U.S. origin only. Under the proposal, warehouse receipts or shipping certificates issued prior to September 1, 1992, will be deliverable against the subject futures contracts beginning September 1992 only if the regular warehouseman or shipper provides certification, on the warehouse receipt or shipping certificate, that the U.S.-origin-only option is available to the taker of delivery. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on the proposal.

DATES: Comments must be received on or before August 5, 1991.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the U.S.-origin proposal for the CBT's corn, wheat, soybean, soybean oil and soybean meal futures contracts.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

SUPPLEMENTARY INFORMATION: In justification of the proposed amendments, the CBT stated:

The proposed amendments are designed to mirror current standards of the cash markets for corn, wheat, soybeans, soybean meal, and soybean oil in order to maintain these agricultural futures contracts as effective pricing and risk-transfer vehicles for buyers and sellers alike, both in the U.S. and abroad. The current standards are the result of contradictions between the U.S.-Canada Free Trade Agreement and the 1990 U.S. Farm Bill.

Because the 1990 Farm Bill subjects exporters to stiff penalties if they ship agricultural products of foreign origin in a sale subsidized or financed with federal funds, cash agricultural commodity contracts in the U.S. export channels call for U.S. origin only commodities. Concurrently, the U.S.-Canada Free Trade Agreement reduces the barriers which prevent the free flow of agricultural commodities across the U.S. and Canadian borders. The proposed amendments allow the buyer of a futures contact to receive a U.S.-origin only commodity as needed, and at the same time, continue to allow all agricultural commodities to be received at and loaded-out from delivery warehouses or shipping plants regardless of country of origin. In effect, the proposed amendments preserve the integrity of the CBOT corn, wheat, soybean, soybean meal, and soybean oil contracts as global hedging and pricing vehicles.

With regard to making the proposed amendments effective beginning with the September 1992 contracts, the CBT noted that the September and November 1992 soybean futures contracts and the September and December 1992 corn futures contracts were listed for trading on May 22, 1991. These contracts were listed with asterisks indicating that the proposed amendments would be applicable to these and to subsequent contracts listed, subject to CFTC approval. The September 1992 wheat, soybean meal, and soybean oil futures contracts are scheduled to be listed for trading on July 23, 1991, with the same advisory to traders.

Commenters are requested to address the following questions:

(1) To what extent do the proposed amendments represent commercial practices at the delivery points for each of the subject futures contracts?

(2) To what extent will the proposed amendments affect deliverable supplies for each contract?

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address, or by telephone at 202-254-6314.

The materials submitted by the CBT in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on June 28, 1991.

Gerald Gay,

Director.

[FR Doc. 91-15962 Filed 7-3-91; 8:45 am]

BILLING CODE 6351-01-M

[1] In addition, the Commission received identical proposed rule changes for the corn, soybean, and wheat futures contracts of the MidAmerica Commodity Exchange (MCE), which has designated the CBT as the primary market for these contracts. Since the MCE's proposals are identical to those of the CBT, only the CBT's proposals are referred to hereafter.

COUNCIL ON ENVIRONMENTAL QUALITY

President's Commission on Environmental Quality; Meeting

AGENCY: Council on Environmental Quality, Executive Office of the President, President's Commission on Environmental Quality.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is being provided of a meeting of the President's Commission on Environmental Quality. This meeting is open to the public and there will be an opportunity for public comment.

DATES: The meeting will be held on July 22 and 23, 1991.

ADDRESSES: The meeting will be held from 5 pm to 7 pm on Monday, July 22, 1991, at the Woodrow Wilson International Center for Scholars Library, Smithsonian Institution, 1000 Jefferson Place, SW., 3rd floor, Washington, DC. It will continue on July 23, 1991, from 8 am to 10:30 am and from 2:15 p.m. to 3 pm at room 474 (Indian Treaty Room), Old Executive Office Building, 17th Street & Pennsylvania Avenue, NW., Washington, DC.

Persons attending the meeting on July 23 will need to provide their names and dates of birth to Ms. Kim Chastian (telephone: (202) 395-5750) by Friday, July 19, 1991, at 5 p.m. for clearance into the Old Executive Office Building.

Agenda

Monday, July 22, 1991

Woodrow Wilson International Center for Scholars Library, Smithsonian Institution, 1000 Jefferson Place, SW., 3rd floor, Washington, DC.

5 p.m.-5:20 p.m. Opening Remarks, Mission, Guiding Principles.

5:20 p.m.-5:30 p.m. Commission Management Guidelines Commission Charter.

5:30 p.m.-6:45 p.m. Presentations by Commission Members.

6:45-7 p.m. Closing Remarks.

Tuesday, July 23, 1991

Old Executive Office Building, 17th Street & Pennsylvania Avenue, NW., room 474 (Indian Treaty Room), Washington, DC.

8 a.m.-8:30 a.m. Opening Remarks & Overview.

8:30 a.m.-9 a.m. Commission Organization & Program Implementation.

9 a.m.-10:30 a.m. Discussion.

10:30 a.m.-2:15 p.m. Break.

2:15 p.m.-2:30 p.m. Public Comment Period (Comments Limited to 3 Minutes Each).

2:30 p.m.-3 p.m. Concluding Remarks.

3 p.m. Adjourn.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Chastian, Staff Assistant, President's Commission on Environmental Quality (telephone: (202) 395-5750).

SUPPLEMENTARY INFORMATION: The President's Commission on Environmental Quality was established by Executive Order No. 12737 on December 12, 1990. The Commission has 25 members and is chaired by the Chairman of the Council on Environmental Quality. The function of the Commission is to advise the President on matters involving environmental quality.

Patricia M. Kearney,

Director, President's Commission on Environmental Quality.

[FR Doc. 91-16135 Filed 7-3-91; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Environmental Response Task Force; Meeting

AGENCY: Office of the Assistant Secretary of Defense (Production and Logistics).

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force. The purpose of the meeting is to consider issues related to the improvement of interagency coordination of environmental response actions at military installations scheduled for closure pursuant to Public Law 100-526. The Task Force will also consider consolidation and streamlining of current practices with respect to such actions and consider recommendations regarding changes to existing laws, regulations, and administrative policies. Testimony will be taken from invited witnesses. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the Task Force should contact Mr. Kevin Doxey, Task Force Executive Director, and prepare a written statement which can be summarized orally before the Task Force at the time to be fixed for public witnesses. Written statements must be received by the close of business, July 15, 1991, at the office of the Deputy Assistant Secretary of Defense (Environment).

DATES:

July 17, 1991, 9 a.m.-4 p.m.,
July 18, 1991, 9 a.m.-12 noon.

ADDRESSES: 1616 P Street, NW., Washington, DC, 20036, Thomas L. Kimball Conference Center.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, Task Force Executive Director, Office of the Deputy Assistant Secretary of Defense (Environment), rm-3D833, the Pentagon, Washington, DC 20301-8000; telephone (703) 695-8355.

Dated: June 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-15917 Filed 7-3-91; 8:45 am]

BILLING CODE 3810-01-M

Membership of the Office of the Secretary of Defense Performance Review Board

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Office of the Secretary of Defense, the Joint Staff, the U.S. Mission to NATO, the Defense Advanced Research Projects Agency, the Defense Investigative Service, the Defense Security Assistance Agency, the Strategic Defense Initiative Organization, the Defense Field Activities, and the U.S. Court of Military Appeals. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings, performance awards, and recertification of career executives to the Secretary of Defense.

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Janet E. Thompson, Assistant Director for Executive Personnel and Classification, Directorate for Personnel and Security, WHS, Office of the Secretary of Defense, Department of Defense, the Pentagon (202) 697-8304.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following executives are appointed to the OSD PRB; specific PRB panel assignments will be made from this group. Executives listed will serve a one-year renewable term, effective July 1, 1991.

Office of the Secretary of Defense

Chairman

Jeanne B. Fites.

Members

Mick L. Blackledge,

Gregory L. Colocotronis,
James M. Compton,
Barbara Ann Falkner,
Joseph J. Friedl, Jr.,
Dennis J. Granato,
Gerald B. Kauvar,
Billy Gene Love,
Robert T. Mason,
William M. McDonald,
Billy C. Murrell,
Ronald S. Oxley,
Spiros G. Pallas,
John B. Rosamond,
Vincent P. Roske, Jr.,
Ronald P. Sanders,
Mark B. Schneider,
Howard H. Shapiro,
Diana G. Tabler,
Nicholas A. Toomer,
Nelson E. Toye.

Alternates

Paul E. Chistolini,
Robert E. Dorosz,
Thomas F. Granahan,
Charles J. Infosino,
Thomas J. Kiernan,
John L. Laughlin,
John F. Mazzuchi,
John H. McNeill,
Robert A. Nemetz,
Jordon E. Rizer,
Melvin W. Russell,
Nicolai Timenes, Jr.,
John B. Todaro,
John T. Tyler, Jr.,
Christopher C. Wright.

Dated: June 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-15918 Filed 7-3-91; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD Vehicle Access Application; DD Form X076.

Type of Request: Existing collection.

Average Burden Hours/Minutes Per Response: 3 minutes.

Reponses Per Respondent: 1.

Number of Respondents: 500.

Annual Burden Hours: 25.

Annual Responses: 500.

Needs and Uses: Application is used for access of vehicles into controlled areas of the Pentagon for purposes of loading or off-loading, discharge of passengers, or delivery of sensitive material. It is to provide regulation of vehicle traffic in high use areas and control access to those vehicles required by circumstances or cargo to be allowed entry to areas normally restricted from general public parking or employee parking or access.

Affected Public: Federal agencies or employees; Businesses or other-for-profit; and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: June 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-15912 Filed 7-3-91; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Contractor Improvement Program.

Type of Request: New collection.

Average Burden Hours/Minutes per Response: 80 hours.

Responses per Respondent: One.

Number of Respondents: 130.

Annual Burden Hours: 10,530.

Annual Responses: 130.

Needs and Uses: To evaluate contractor progress on individual contracts and contractor plans for correcting the overall cause of performance problems in order to protect the Government's contractual rights. Respondents will be defense contractors who are consistently unable to perform in accordance with the terms of their contracts.

Affected Public: Businesses or other for profit; Federal angencies or employees; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. William P. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202-4302.

Dated: June 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-15913 Filed 7-3-91; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD Building Pass Application; DD Form 2249.

Type of Request: Existing collection.

Average Burden Hours/Minutes Per Response: 3 minutes.

Responses Per Respondent: 1.

Number of Respondents: 102,000.

Annual Burden Hours: 5,100.

Annual Responses: 102,000.

Needs and Uses: Application is used to obtain DoD Building Pass for DoD personnel, other authorized U.S. Government personnel, and DoD consultants and experts who regularly work in or require frequent and continuing access to DoD owned or occupied buildings in the National Capital Region.

Affected Public: Federal agencies or employees; Businesses or other for-

profit; and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: June 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–15914 Filed 7–3–91; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Application for AFROTC Membership; AFROTC Form 20; OMB No. 0701–0105.

Type of Request: Extension.

Average Burden Hours/Minutes per Response: 10 Minutes.

Responses per Respondent: 1.

Number of Respondents: 20,000.

Annual Burden Hours: 3,333.

Annual Responses: 20,000.

Needs and Uses: Applicants for admission to the AFROTC program use AFROTC Form 20 to furnish information on their qualifications to the Air Force. The Air Force evaluates the information furnished to determine the applicants' eligibility for admittance to the program.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington Virginia 22202–4302.

Dated: June 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–15915 Filed 7–3–91; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before August 5, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: July 1, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Drug-Free Schools and Communities.

Frequency: Annually.

Affected Public: State or local governments; Non-profit institutions.

Reporting Burden

Responses: 1,300

Burden Hours: 36,400.

Recordkeeping Burden

Recordkeepers: 0

Burden Hours: 0.

Abstract: This form will be used by State Educational Agencies, Local Educational Agencies, institutions of higher education and non-profit organizations to apply for grants under the Drug-Free Schools and Communities Program. The Department uses the information to make grant awards.

[FR Doc. 91–15950 Filed 7–3–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Proposed Finding of No Significant Impact—Installation and Operation of the Advanced Fleet Reactor Prototype in the S8G Prototype Plant, Kenneth A. Kesselring Site, Saratoga County, NY

AGENCY: Department of Energy.

ACTION: Proposed finding of no significant impact.

SUMMARY: The Department of Energy (DOE) Office of Naval Reactors (NR) has prepared an Environmental

Assessment (EA) of the proposed action to install and operate the Advanced Fleet Reactor prototype in the S8G Prototype Plant at the Kesselring Site. The Advanced Fleet Reactor (AFR) has been designed for use in the Navy's newest class of attack submarines, the SEAWOLF (SSN-21) Class. The purpose of the proposed action is to confirm satisfactory performance of the AFR prototype prior to use of this design in an operating warship. Operation of new design reactor cores in land based prototype plants prior to their use in warships has been a standard NR practice for over 35 years, since the first nuclear powered submarine, USS NAUTILUS.

The EA also discusses alternatives to the proposed action and concludes that there are no alternatives to the proposed action that would accomplish the desired goal of confirming proper operation of the AFR prototype without excessive cost or compromising other important NR objectives. The EA discusses the limited extent of the proposed action, which consists of replacing the existing nearly expended S8G reactor core with an AFR prototype reactor core and some related equipment. The EA summarizes and references the extensive body of existing published reports which discuss the environmental performance of the Kesselring Site, including the releases of radioactivity from the Site and the absence of environmental impact from Site operations. The EA discusses how the replacement of the S8G core with the AFR core, which has a slightly higher power rating, would not significantly affect radiological and nonradiological emissions from the Kesselring Site.

Based on the analysis in the EA, NR considers that the proposed action is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA) of 1969. Therefore, NR proposes to issue a Finding of No Significant Impact (FONSI). In accordance with the Council on Environmental Quality regulations which allow agencies to determine circumstances under which public review of proposed FONSI's are appropriate, NR is making the proposed FONSI and the EA available for public comment for a period of 30 days following the date of **Federal Register** publication of this notice. Comments postmarked within the 30 day public comment period will be considered by NR prior to a final determination whether to issue a FONSI or to prepare an environmental impact statement for the proposed action.

DATES: Comments on the proposed FONSI may be sent to Mr. Richard A. Guida, Associate Director for Regulatory Affairs, Office of Naval Reactors at the address indicated below. Comments must be postmarked by August 5, 1991 to ensure consideration.

ADDRESSES AND FURTHER INFORMATION: Persons requesting further information regarding the installation and operation of the AFR prototype in the S8G Prototype Plant, the NEPA process associated with this proposed action, or wishing a copy of the EA should contact Mr. Kevin Davis, U.S. Department of Energy, Office of Naval Reactors (NE-60), Washington, DC 20585, (703)-603-5564.

SUPPLEMENTARY INFORMATION:

Background

The Naval Nuclear Propulsion Program is a joint Navy/DOE program established in Presidential Executive Order 12344 (permanently enacted by Public Law 98-525, 42 U.S. Code 7158). The Office of Naval Reactors (NR) is the Naval Nuclear Propulsion Program organization within the DOE. Under the law, NR is responsible for all matters pertaining to Naval nuclear propulsion including ". . . research, development, design, acquisition, specification, construction, inspection, installation, certificate, testing, overhaul, refueling, operating practices and procedures, maintenance, supply support, and ultimate disposition of naval nuclear propulsion plants . . ." and ". . . the safety of reactors and associated naval nuclear propulsion plants, and control of radiation and radioactivity associated with naval nuclear propulsion activities . . ."

The United States Navy currently has 147 nuclear powered warships in operation. These vessels represent over 40% of the Navy's principal combatants. The first ship of the Navy's newest class of attack submarines, the SEAWOLF (SSN-21) Class, was authorized in the Fiscal Year 1989 Department of Defense Appropriation Act. It is currently under construction at the Electric Boat Division Shipyard at Groton, Connecticut and is scheduled to go to sea in the mid 1990's. A second SEAWOLF Class submarine was authorized by Congress in the Fiscal Year 1991 Department of Defense Appropriation Act.

Proposed Action

NR operates seven prototype naval nuclear propulsion plants which were built to confirm satisfactory performance of new warship propulsion plant designs before they were installed and used in ships at sea. In addition to this function, these prototype plants provide a training platform for Naval officers and enlisted personnel. Subsequent to their construction, the prototype plants have been used to test new components, including improved reactor cores. Since the inception of the Naval Nuclear Propulsion Program in 1949, over 35 different reactor core designs have been developed and operated. Continuing this practice, NR proposes to install and operate the AFR prototype in the S8G Prototype Plant.

The S8G Prototype Plant began operation in 1979 as the prototype for the TRIDENT submarine and is the most modern Naval prototype plant. The S8G Prototype Plant was constructed with containment and engineered safety features comparable to a commercial nuclear power plant. Installation of the AFR prototype will require removing the depleted S8G core and its supporting structure from inside the reactor vessel, the reactor vessel head, and the control rod drive mechanisms, followed by replacement with AFR equipment.

Alternatives Considered

There are no alternatives to the proposed action which would accomplish the NR objective of confirming satisfactory operation of the AFR prototype without either excessive cost or jeopardizing other important missions of NR. The no action alternative would be to continue operation of the S8G Prototype Plant with an identical replacement S8G core and not confirm satisfactory operation of the AFR prototype prior to operation in the first SEAWOLF submarine. This would depart from successful NR practice of over 35 years. Confirmation of AFR operation in an existing Navy ship would require removing a TRIDENT submarine from strategic deterrent service and would not provide as much useful technical information as operation in a land based prototype. No other existing NR prototype is suitable for installation of the AFR prototype, and no other DOE owned reactor could accommodate it. The alternative of constructing a totally new prototype plant is undesirable due to the cost exceeding $2 billion.

Environmental Considerations

An extensive body of existing environmental reports document the environmental performance of the Kesselring Site, including the S8G Prototype Plant and the three other prototype plants at the Site. The four prototype plants combined release a very small fraction of the amount of

radioactivity released by a typical commercial nuclear power plant operating in accordance with Nuclear Regulatory Commission license limits. Radiological environmental monitoring by the Kesselring Site and independent monitoring by the State of New York have not detected any off-site radioactivity from Site operations. There is no radioactivity from the Site detectable in the small trout stream which runs through the Site and receives Site liquid effluents. Releases of airborne radionuclides result in off-site doses that are less than one percent of the U.S. Environmental Protection Agency standard. Nonradioactive effluents including thermal effluents also are carefully controlled. Routine biological monitoring of the trout stream demonstrates that the Kesselring Site has not degraded this healthy trout stream. The General Accounting Office recently completed a thorough fourteen month review of environment, health, and safety matters (including reactor safety) at DOE sites under the cognizance of NR, including the Kesselring Site. The General Accounting Office reported to Congress that they found no significant deficiencies.

Since the AFR core is rated at a power only slightly greater than the S8G core, there would be no discernible change in the year to year variations in the very small radiological effluents from the Site. The temperature of nonradioactive liquid effluents would not increase and stringent New York State limits on thermal releases to the trout stream would continue to be met. Routine radioactive and nonradioactive waste generation would not be affected by installation and operation of an AFR prototype reactor core rather than a replacement S8G core. These waste generation rates would remain consistent with past waste generation from the Kesselring Site. There will be no increase in hazardous or mixed hazardous and radioactive waste generation as a result of AFR prototype installation and operation.

U.S. Naval nuclear propulsion reactors have an outstanding safety record. In over 3800 reactor-years of operation, there has never been a nuclear reactor accident nor any incident having a significant effect on the environment. As discussed in the EA, features which are built into U.S. Naval nuclear propulsion reactors to make them battleworthy also enhance reactor reliability and safety. As discussed in the classified appendix to the EA, the design of the AFR allows the AFR prototype to improve performance without sacrificing safety margins. As is the case for all new reactor plant designs, the S8G Prototype Plant design was reviewed with the Nuclear Regulatory Commission and the Advisory Committee on Reactor Safeguards. Even in the event of an accident of remote probability where the engineered safety features of the prototype plant are assumed to fail to work, operation of the S8G Prototype Plant would meet the reactor siting criteria of 10CFR100 used for commercial reactors. The EA discusses how the replacement of the S8G reactor core with an AFR prototype core would not affect this conclusion.

Proposed Determination

Based on the information and analysis in the EA, NR considers the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Therefore, an environmental impact statement is not required. NR proposes to issue a finding of no significant impact and will make a final determination following a 30-day public review period.

Issued at Arlington, VA this 1st day of July 1991.

B. DeMars,

Deputy Assistant Secretary for Naval Reactors.

[FR Doc. 91-16021 Filed 7-3-91; 8:45 am]

BILLING CODE 6450-01-M

Secretary of Energy Advisory Board Task Force on Economic Modeling Related to Energy; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770, as amended), notice is hereby given of the following advisory committee task force meeting:

Name: Secretary of Energy Advisory Board Task Force on Economic Modeling Related to Energy.

Date and Time: Monday, July 15, 1991, 10:30 a.m.-4:45 p.m.

Place: Room 1E-245, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-7092

Note: To obtain badge at front desk it will be necessary to have a picture I.D. (for example, a Driver's License, Passport or Company I.D.). All visitors will be escorted at all times for security reasons.

Contact: Susan D. Heard, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-3770.

Purpose: The Task Force will advise the Department of Energy on how economic models and tools of analysis can better be used to address issues of energy policy by developing recommendations to clarify analytical needs, facilitate communication between DOE analysts and policy makers, and create institutions within DOE that accumulate knowledge gained through the policy modeling process.

Tentative Agenda

Monday, July 15, 1991

10:30 a.m. Welcome and opening remarks
11:30 a.m. Presentations from DOE offices and other organizations
12:30 p.m. Lunch
1:30 p.m. Presentations from DOE offices and other organizations
2:45 p.m. Break
3 p.m. Discussion of Task Force terms of reference
3:30 p.m. Discussion of Task Force assignments
4 p.m. Discussion of subgroup meetings and schedule
4:15 p.m. Discussion of schedule and agenda for next meeting
4:30 p.m. Public comment
4:45 p.m. Adjournment

Public Participation: The meeting is open to the public. The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Persons wishing to attend the public meeting should call (202) 586-7092 by July 10 to arrange for visitor passes to the Forrestal Building.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number listed above. Requests must be received before 3 p.m. (e.d.t.) Wednesday, July 10, 1991, and reasonable provision will be made to include the presentation during the public comment period. It is requested that oral presenters provide 15 copies of their statements at the time of their presentations.

Written testimony pertaining to agenda items may be submitted prior to the meeting. Written testimony must be received by the Designated Federal Officer at the address shown above before 5 p.m. (e.d.t.) Wednesday, July 10, 1991, to assure it is considered by Task Force members during the meeting.

The notice is being published less than 15 days in advance of the meeting due to a delay in finalizing the date of the meeting.

Minutes: A transcript of the open, public meeting will be available for public review and copying approximately 30 days following the meeting at the Public Reading Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between a.m. and p.m., Monday through Friday except Federal holidays.

Issued: Washington, DC, on: June 28, 1991.

Edwin F. Inge,

Deputy Advisory Committee, Management Officer.

[FR Doc. 91-16022 Filed 7-3-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP91-178-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

June 27, 1991.

Take notice that Algonquin Gas Transmission Company (Algonquin) on June 24, 1991, tendered for filing to its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with a proposed effective date of August 1, 1991:

First Revised Sheet No. 656
First Revised Sheet No. 657
First Revised Sheet No. 658
First Revised Sheet No. 659

Algonquin states it is filing the revised tariff sheets to reflect the daily scheduling of gas and a monthly no bump policy. Algonquin also states that the proposed changes will enable buyers receiving interruptible transportation service to nominate and schedule deliveries of gas for each day of a calendar month and not be subject to interruption or curtailment unless: (1) Such capacity is required for a higher priority service under an agreement which is not a new interruptible agreement; or (2) interruption of curtailment is necessary pursuant to the provisions of § 30.2 of Seller's General Terms and Conditions.

Algonquin notes that copies of the filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before July 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15924 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR91-22-000]

Cranberry Pipeline Corp.; Petition for Rate Approval

June 27, 1991.

Take notice that on June 17, 1991, Cranberry Pipeline Corporation (Cranberry) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.8770 per Mcf for transportation of natural gas on Cranberry's Pennsylvania system under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Cranberry states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and currently operates intrastate facilities consisting of approximately 506 miles of low diameter, low pressure pipeline, and 16 miles of higher pressure pipeline located in Pennsylvania. Cranberry's previous maximum interruptible transportation rate of $0.53 per Mcf for section 311(a)(2) service was approved by the Commission order issued May 31, 1989, in Docket No. ST88-4279-000.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's rules of practice and procedures. All motions must be filed with the Secretary of the Commission on or before July 18, 1991. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15925 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-44-000]

El Paso Natural Gas Co.; Compliance Filing

June 27, 1991.

Take notice that on April 19, 1991, El Paso Natural Gas Company (El Paso) in compliance with the Commission "Order Accepting in Part and Modifying in Part Amended Offer of Settlement" issued March 20, 1991, tendered for filing and acceptance certain revised tariff provisions contained on *pro forma* tariff sheets.

El Paso states a copy of the filing is being served upon each person designated on the official service list complied by the Secretary at Docket No. RP88-44-000, *et al.* and interest state regulatory 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 rules 214 and 211 of the Commission's rules of practice and procedures, 18 CFR 385.214 and 385.211. All such protests should be filed on or before July 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15926 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-2-53-001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

June 27, 1991.

Take notice that on June 13, 1991, K N Energy, Inc., (K N) in compliance with the Commission's order issued May 31, 1991 in the above-referenced proceeding filed the following revised tariff sheets to its FERC Gas Tariff, Fourth Revised Volume No. 1, with a proposed effective date of June 1, 1991:

Substitute Second Revised Sheet No. 4
Substitute Second Revised Sheet No. 4A
Substitute Second Revised Sheet No. 4B

K N states that copies of the filing were served upon K N's jurisdictional customers, and interested public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's rules of practice and procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before July 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15927 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-86-018]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

June 27, 1991.

Take notice that on May 31, 1991, K N Energy, Inc. (K N) tendered for filing revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1-A and First Revised Volume No. 1-B, with a proposed effective date of April 1, 1991.

K N states that it is correcting an error in its March 27, 1991 filing made in compliance with the Commission's February 25, 1991 order and approved by the Commission in a May 1, 1991 letter order, by submitting a complete set of tariff sheets that includes both the November 7, 1990 revisions approved by the Commission in its February 25, 1991 order and the March 27, 1991 revisions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's rules of practice and procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before July 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15928 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-37-004]

MIGC, Inc.; Proposed Change in FERC Gas Tariff

June 27, 1991.

Take notice that on June 21, 1991, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fifth Revised Sheet No. 310.

MIGC states that the above-listed sheet is being filed in compliance with the Commission's Order Nos. 497 and 497-A and that such tariff sheet reflects changes in operating personnel shared by MIGC and its Marketing Affiliate.

The proposed effective date of the subject tariff sheet is June 30, 1991 for Sheet No. 310.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's rules of practice and procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before July 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervne in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15930 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR91-23-000]

Midcoast Ventures I; Petition for Rate Approval

June 27, 1991.

Take notice that on June 20, 1991, Midcoast Ventures I (Midcoast) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of 25 cents per MMBtu for transportation of natural gas on its Kansas system under section 311(a) of the Natural Gas Policy Act of 1978 (NGPA).

Midcoast states that it is an intrastate pipeline company within the meaning of section 2(16) of the NGPA, owning and operating discrete pipeline facilities within the States of Texas and Kansas. Midcoast further states that it has recently negotiated an arrangement to transport gas under NGPA Section 311 to Owens-Corning Fiberglas Corporation (Owens-Corning) located in Kansas City, Kansas. Midcoast states that it seeks approval of a maximum rate under NGPA section 311 that will be applicable to Owens-Corning, as well as to any other future NGPA section 311 transportation transactions it may provide on its Kansas pipeline facilities.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's rules of practice and procedures. All motions must be filed with the Secretary of the Commission on or before July 18, 1991. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15929 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR91-21-000]

Mississippi Valley Gas Co.; Petition for Rate Approval

June 27, 1991.

Take notice that on June 14, 1991, Mississippi Valley Gas Company (Mississippi Valley) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.3420 per MMBtu for transportation of natural gas on Mississippi Valley's system under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Mississippi Valley states that it does not choose to make an election under § 284.123(b)(1) and instead applies for Commission approval of the new $0.3420 general system rate proposed herein. Mississippi Valley's previous maximum interruptible transportation rate of $0.2907 per MMBtu for section 311(a)(2) service was approved by a Commission order issued March 31, 1989, in docket No. ST88-4246-000.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration

of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before July 18, 1991. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15931 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-7-004]

Sabine Pipe Line Co.; Proposed Changes in FERC Gas Tariff

June 27, 1991.

Take notice that Sabine Pipe Line Company (Sabine) on June 19, 1991, tendered for filing the following proposed change to its FERC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1991.

Second Revised Sheet No. 231

Sabine states that copies of the filing were served upon Sabine's customers, the State of Louisiana, Department of Natural Resources, Office of Conservation and the Railroad Commission of Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's rules of practice and procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before July 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15932 Filed 7-3-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3971-5]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed June 24, 1991 Through June 28, 1991 Pursuant to 40 CFR 1506.9.

EIS No. 910214, Final EIS, BLM, KS, Kansas Comprehensive Resource Management Plan (RMP), Oil and Gas Leasing and Development, Implementation, Several Counties, KS, Due: August 05, 1991, Contact: Paul W. Tanner (405) 794-9624.

EIS No. 910215, Draft EIS, COE, NV, Las Vegas Wash and Tributaries (Tropicana and Flamingo Washes) Flood Damage Reduction Plan, Implementation and Funding, Las Vegas Valley, Clark County, NV, Due: August 19, 1991, Contact: Ronald MacDonald (213) 894-3661.

EIS No. 910216, Draft Supplement, AFS, CA, Goleta and Gaviota Substations 66 kV Transmission Line Construction, Phase I, New Alternative and Updated Information, Goleta Substation to Exgen Substation in Las Flores Canyon, Santa Barbara County, CA, Due: August 19, 1991, Contact: Lawrence Bembry (805) 683-6711.

EIS No. 910217, Draft EIS, AFS, CA, Littlerock Dam and Reservoir Restoration Project, Implementation and Special Use Permit, Section 404 Permit, Los Angeles National Forest, Valyermo Ranger, Los Angeles County, CA, Due: August 19, 1991, Contact: Michael Rogers (818) 574-1613.

EIS No. 910218, Draft EIS, FAA, TX, Houston West Side Airport Improvement, Funding, Airport Layout Plan, Waller County, TX, Due: August 19, 1991, Contact: Tim Tandy (817) 624-5859.

Amended Notices

EIS No. 910034, Draft EIS, COE, IN, Tillery Hill State Recreation Area Development, Construction, Operation, and Maintenance of Recreation Facilities, Patoka Lake, Orange County, IN, Due: December 15, 1991, Contact: Keith Hoss (502) 582-6015. Published FR 02-08-91—Review period extended.

Dated: July 1, 1991.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 91-16049 Filed 7-3-91; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3971-6]

Environmental Impact Statements and Regulations: Availability of EPA Comments

Availability of EPA comments prepared June 17, 1991 through June 21, 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) 382-5076.

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-L65145-WA Rating EC2, Loose Bark/Grouse Butte West Timber Sale, Road Construction, Implementation, Mt. Baker-Snoqualmie National Forest, Mt. Baker Ranger District, Whatcom and Skagit Counties, WA.

Summary: EPA's main concern was the effect of the action alternatives on air quality. Additional information was requested on air quality effects and monitoring.

ERP No. D-DOE-A00163-00 Rating E02, New Tritim Production Reactor Capacity Facilities, Siting, Construction and Operation, Implementation, Hanford Site near Richland, WA; Idaho National Engineering Laboratory near Idaho Falls, ID and Savannah River Site near Aiken, SC.

Summary: EPA's main concerns are: (1) a lack of information on the operating history of each technology, (2) radiological and environmental impact assessments are based on preliminary conceptual designs, (3) a possible lack of parity in the impact analysis performed for each technology. EPA recommends that DOE either include the information requested in our draft EIS comments in the final EIS or prepare a "tiered" NEPA/EIS documentation.

ERP No. D-FRC-L05200-WA Rating EO2, Elwha (FERC No. 2683) and Glines Canyon (FERC No. 588) Hydroelectric Proects, Operation and Maintenance, License, Elwha River, Clallam County, WA.

Summary: EPA expressed environmental objections with the three dam retention alternatives based on the potential for significant environmental degradation (ecological resources and ecosystem functions) if the dams are left in place. EPA expressed environmental concerns with the two-dams removal alternative based on the potential impacts to the drinking water source for the city of Port Angeles. Additional information was requested regarding mitigation, restoration goals, monitoring, wetlands, and water quality/quantity.

Final EISs

ERP No. F-AFS-L65124-AK, North Sea Otter Sound Area Resources Management Plan, Implementation, Tongass National Forest, Ketchikan Area, AK.

Summary: EPA believes while substantial new information was added to the final EIS, the EIS still lacks details of the monitoring plan. In addition, there was no discussion on compliance with Alaska Water Quality Standards (WQS).

ERP No. F-FHW-E40713-KY, Richmond Bypass Extension, US 25/421 North to US 25/421 South, Funding, Madison County, KY.

Summary: EPA recommended that measures be taken to comply with noise abatement criteria and to reduce the noise impacts. EPA believes that the use of twin bridges at the Dreaming Creek Crossing should reduce the impact to aquatic ecosystems water quality.

Regulations

ERP No. R-COE-A86043-00, 33 CFR part 330; Proposal to Amend Nationwide Permit Program Regulations and Issue, Reissue, and Modify Nationwide Permits (56 14598).

Summary: EPA has significant concerns with the proposed nationwide permit program as well as permit-specific issues. EPA is troubled by the proposed elimination of interagency coordination procedure for those nationwide permits that require a pre-discharge notification. Further, as the Clean Water Act 404(b)(1) Guideline apply to all general permits, the limitation of mitigation conditions to on-site minimization of discharges into waters of the U.S. appears inappropriate. The draft Environmental Assessments insufficiently address alternatives to the proposed changes, the anticipated impacts of each of the proposed permits, and do not address the overall impact of the proposed program.

Dated: July 1, 1991.

R. Douglas Cooper,

Director, SPAD, Office of Federal Activities.

[FR Doc. 91-16070 Filed 7-3-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3971-8]

Meeting of the Northeast Ozone Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing a meeting of the Northeast Ozone Transport Commission to be held on July 16, 1991.

This meeting is for the Transport Commission to deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

DATES: The meeting will be held on July 16, 1991.

PLACE: The meeting will be held at: The Mc Cormack Building, One Ashburton Place, 21st floor, Conference Rooms 1-4, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, United States Environmental Protection Agency, 26 Federal Plaza, room 1037A, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at section 184 new provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the Commission in New York on May 7, 1991. The purpose of the Transport Commission is to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this Commission will meet on July 16, 1991. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of transport commissions are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits.

Type of Meeting: Open.

Agenda:

The meeting begins at 10 a.m. and is expected to last until 4 p.m. The purpose of the meeting is to continue to organize the Commission, and to receive reports from its committees.

Dated: June 26, 1991.

Constantine Sidamon-Eristoff,

Regional Administrator, EPA Region II.

[FR Doc. 91-16012 Filed 7-3-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. 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.: 224-200540.

Title: North Carolina State Ports Authority/Lauritzen Reefers A/S Terminal Agreement.

Parties: North Carolina State Ports Authority Lauritzen Reefers, A/S.

Synopsis: The Agreement, filed June 26, 1991, provides for a throughput service rate for full or empty containers at Wilmington and Morehead City, North Carolina based on a minimum number of vessel calls and a minimum revenue per vessel call. The Agreement's initial term is for one year

Agreement No.: 224-200287-002.

Title: Port of Oakland/Mitsui O.S.K. Lines, Limited Terminal Agreement.

Parties: Port of Oakland, Mitsui O.S.K. Lines, Limited.

Synopsis: The Agreement, filed June 27, 1991, amends the basic agreement to increase the area of the assigned premises by 8.1 acres and to increase the annual tonnage throughput minimum.

and breakpoint levels from 300,000 revenue tons to 450,000 revenue tons.

Dated: June 28, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-15872 Filed 7-3-91; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0104, Report of Employment Under Commercial Activity Contracts. The information is needed by the Office of Personnel Management to comply with 5 CFR 550.701(b)(6) severance pay eligibility requirements.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

ANNUAL REPORTING BURDEN: Respondents: 150; annual responses: 1.0; average hours per response: 0.50; burden hours: 75.00.

FOR FURTHER INFORMATION CONTACT: Betty Morantt, (202) 501-4765. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7102, GSA Building, 18th & F Street NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: June 25, 1991.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 91-15966 Filed 7-3-91; 8:45 am]

BILLING CODE 6820-61-M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Federal Supply Service (FBP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0001, Application of Eleemosynary Institution. It is used by GSA National Capital Region to determine an institution's eligibility to participate in the forefeited distilled spirits donation program.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

ANNUAL REPORTING BURDEN: Respondents: 25; annual responses: 1.0; average hours per response: 0.25; burden hours: 6.25.

FOR FURTHER INFORMATION CONTACT: Audrey L. Harris, (703) 557-1234. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7102, GSA Building, 18th and F Street NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: June 25, 1991.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 91-15967 Filed 7-3-91; 8:45 am]

BILLING CODE 6820-24-M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Federal Supply Service (FBF), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0118, Statement of Witness. This form is used by all Federal agencies to report accident information involving U.S. Government vehicles.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th and F Street NW., Washington, DC 20405.

ANNUAL REPORTING BURDEN: Respondents: 1,350; annual responses: 1.0; average hours per response: 0.33; burden hours: 449.96.

FOR FURTHER INFORMATION CONTACT: Michael W. Moses, (703) 557-1273. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7102, GSA Building, 18th & F Street NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: June 26, 1991.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 91-15968 Filed 7-3-91; 8:45 am]

BILLING CODE 6820-24-M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0227, GSAR part 549: Termination Liability Schedule. This enables GSA to obtain communication services in accordance with the specified terms and conditions of the applicable tariffs.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th and F Streets NW., Washington, DC 20405.

ANNUAL REPORTING BURDEN: Respondents: 60; annual responses: 1.0; average hours per response: 2.50; burden hours: 150.00.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad (202) 501-1224. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7102, GSA Building, 18th & F Streets NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: June 26, 1991.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 91-15969 Filed 7-3-91; 8:45 am]

BILLING CODE 6820-61-M

Information Resources Management Service; Federal Telecommunications Standards

ACTION: Notice of adoption of standard.

SUMMARY: The purpose of this notice is to announce the adoption of a Federal Telecommunications Standard (FED-STD). FED-STD 1037B, "Telecommunications: Glossary of Telecommunication Terms" is approved by the General Services Administration and will be published.

FOR FURTHER INFORMATION CONTACT: Mr. Gary M. Rekstad, Office of Technology and Standards, National Communications System, telephone (703) 692-2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible under the provision of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of GSA designated the National Communications System (NCS) as the responsible agent for the development of telecommunications standards for NCS interoperability and the non-computer communication interface.

2. On April 25, 1990, a notice was published in the **Federal Register** (55 FR 17510) that a proposed Federal Telecommunications Standard 1037B entitled "Telecommunications: Glossary of Telecommunications Terms" was being proposed for Federal use.

3. The justification package as approved by the Director, Office of Science and Technology Policy (OSTP), Executive Office of the President was presented to GSA by NCS with a recommendation for adoption of the standard. These data are a part of the public record and are available for inspection and copying at the Office of Technology and Standards, National Communications System, Washington, DC 20305-2010.

4. A copy of the standard is provided as an attachment to this notice. Interested parties may purchase the standard from GSA, acting as agent for the Superintendent of Documents. Copies are for sale at the GSA Specifications Unit (WFSIS), room 6039, 7th and D streets SW., Washington, DC 20407; telephone (202) 472-2205.

Dated: June 3, 1991.

Thomas J. Buckholtz,

Commissioner, Information, Resources Management Service.

Telecommunications: Glossary of Telecommunication Terms

1. Scope. The terms and accompanying definitions contained in this standard are drawn from authoritative non-Government sources such as the International Telecommunication Union, the International Organization for Standardization, the Telecommunications Industry Association, and the American National Standards Institute, as well as from numerous authoritative U.S. Government publications. The FTSC working group has rewritten many definitions deemed necessary either to reflect technology advances or to make definitions which were phrased in specialized terminology more understandable to a broader audience.

1.1. Applicability. This standard incorporates and supersedes FED-STD-1073A, June 1986. Accordingly, all Federal departments and agencies shall use it as the authoritative source of definitions for terms used in the preparation of all telecommunications documentation. The use of this standard by all Federal departments and agencies is mandatory.

1.2. Purpose. The purpose of this standard is to improve the Federal acquisition process by providing Federal departments and agencies a comprehensive, authoritative source of definitions of terms used in telecommunications and directly related disciplines by national, international, and U.S. Government telecommunications specialists.

2. Requirements and Applicable Documents. The terms and definitions that constitute this standard, and that are to be applied to the applications cited in paragraph 3 below, are contained on page 1 through the end of this document. There are no other documents applicable to implementation of this standard. A list of acronyms and abbreviations follows the terms and definitions for the letter "Z".

3. Use.

a. All Federal departments and agencies shall use the terms and definitions contained herein. Only after determining that a term or definition is not included in this document may other sources by used. The legend table on page xi is provided to assist users in determining the documentary source of the definitions where multiple definitions are included for a single term.

b. All terms are listed alphabetically. Terms containing numerals are alphabetized as though the numbers were spelled out; thus, "FIA-line weighting" will appear in the "F" portion of the alphabet between the terms "FOC" and "footprint," since it is pronounced "F-one- * * *" and "144-line weighting" will appear in the "O" portion of the alphabet, alphabetized as "one-forty-four line * * *". For user convenience, exceptions to the rule are taken for entries comprising numerically sequential terms, e.g., "digital signal O," * * * "digital signal 4", which are grouped numerically following the "digital signal" entry.

c. An abbreviation for the term name often appears in parentheses following the term name. In some cases, this abbreviation is properly an acronym, and is thus labeled. (As a general rule of thumb, an acronym is an abbreviation that constitutes a word that can be (or usually is) pronounced.) The list of abbreviations and acronyms appears at the end of this glossary.

d. Terms with more than one definition have numbered definitions. Generallly, definition number "I" contains the most frequently used meaning of the term. Notes and cross-references are placed with the appropriate definition(s). Three types of cross-references are used: "Synonym", "See", and "See also":

(1) When terms are synonymous, the definition is placed under only one of the term names, generally the preferred name. Synonyms are listed for cross-reference purposes only. The other term name entries contain only a "Synonym" listing (and other cross-references, where appropriate); i.e., the definition for synonymous term names is not repeated. Terms labeled "Colloquial synonym" are in occasional informal use, but typically are semantically inexact, causing confusion, or may border on slang.

(2) "See" is used where an undefined term name is entered as a cross-reference only to direct the reader to a related term (or terms) that is (are) defined in the glossary.

(3) The "See also" cross-reference is used to identify term names that are related or contrasted, to amplify the reader's understanding of a family of terms.

e. Term names that are semantically incorrect, that have been replaced by recent advances in technology, and that have definitions that are no longer applicable, are designated as "deprecated". Reference is made to new terms or to new definitions, where applicable.

f. The telecommunications terms included in this glossary either are not sufficiently defined in a standard desk dictionary or are restated for clarity and convenience. Likewise, combinations of such words are included in this glossary where the usual desk dictionary definitions, when used in combination, are either insufficient or vague.

4. Effective Date. The use of this approval standard by U.S. Government departments and agencies is mandatory, effective 180 days following the date of this standard.

5. Changes. When a Federal department or agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration (K), Washington, DC 20405, in

accordance with the provisions of the Federal Information Resources Management Regulation, subpart 201-20. The General Services Administration will determine the appropriate action to be taken and will notify the agency.

Federal departments and agencies are encouraged to submit updates and corrections to this standard, which will be considered for the next revision of this standard. The General Services Administration has delegated the compilation of suggested changes to the National Communications System whose address is given below.

Preparing Activity

Office of the Manger, National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

[FR Doc. 91-15970 Filed 7-3-91; 8:45 am]

BILLING CODE 6020-25-M

Information Resources Management Service

Federal Telecommunications Standards

ACTION: Notice of adoption of standard.

SUMMARY: The purpose of this notice is to announce the adoption of a Federal Telecommunications Standard (FED-STD). FED-STD 1035A, "Telecommunications: Coding Modulation and Transmission Requirements for Single Channel Medium and High Frequency Radiotelegraph Systems Used in Government Maritime Mobile Telecommunications" is approved by the General Services Administration and will be published.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Bodson, Office of Technology and Standards, National Communications System, telephone (703) 692-2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of GSA designated the National Communications System (NCS) as the responsible agent for the development of telecommunications standards for NCS interoperability and the non-computer communication interface.

2. On October 2, 1989, a notice was published in the **Federal Register** (54 FR 40546) that a proposed Federal Telecommunications Standard 1035 entitled "Telecommunications: Coding, Modulation and Transmission Requirements for Single Channel Medium and High Frequency Radiotelegraph Systems Used in Government Maritime Mobile Telecommunications" was being amended for Federal use.

3. The justification package as approved by the Director, Office of Science and Technology Policy (OSTP), Executive Office of the President was presented to GSA by NCS with a recommendation for adoption of the standard. These data are a part of the public record and are available for inspection and copying at the Office of Technology and Standards, National Communications System, Washington, DC 20305-2010.

4. Interested parties may purchase the standard from GSA, acting as agent for the Superintendent of Documents. Copies are for sale at the GSA Specifications Unit (WFSIS), room 6039, 7th and D streets SW., Washington, DC 20407; telephone (202) 708-9205.

Dated: May 10, 1991.

Thomas J. Buckholtz,

Commissioner, Information Resources Management Service.

[FR Doc. 91-15971 Filed 7-3-91; 8:45 am]

BILLING CODE 6020-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Consumer Affairs; Statement of Organization, Functions, and Delegations of Authority

Introduction. Part A, chapter AW, U.S. Office of Consumer Affairs (USOCA), of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, as last amended at 55 FR 20635, May 18, 1990, is being amended to reflect a reorganization of USOCA. The reorganization will enable realignment of functions assigned to USOCA subunits, thus enabling more efficient management of staff and financial resources in the conduct of USOCA programs. The revised chapter reads as follows:

Section AW.00 Mission. The U.S. Office of Consumer Affairs executes the functions assigned by Executive Order 11583 of February 24, 1971 (as amended by Executive Order 11595 of May 26, 1971, and Executive Order 11702 of January 25, 1973) and Executive Order 11566 of October 26, 1970, advises the President on consumer affairs, and coordinates consumer functions in the Federal government. In accordance with Executive Order 12160 of September 26, 1979, the staff also provides assistance to the Chairperson of the Consumer Affairs Council.

Section AW.10 Organization. A. The Director of the U.S. Office of Consumer Affairs reports directly to the President and directs and coordinates the activities of the U.S. Office of Consumer Affairs.

B. The U.S. Office of Consumer Affairs consists of the following components:

Office of the Director;
Division of Public and Legislative Affairs;
Division of Planning, Budget and Evaluation;
Division of Policy and Education Development;
Division of Business, Consumer and International Liaison.

Section AW.20 Functions. A. U.S. Office of Consumer Affairs. (1) Works to ensure appropriate consideration of consumer perspective in policy development at the White House and Federal agencies. The Director also coordinates Federal consumer policy through the Consumer Affairs Council, composed of all Federal agencies providing consumer programs, under authority of Executive Order 12160. (2) Publishes the Consumers' Resource Handbook and other documents distributed upon request to millions of Americans through the Consumer Information Center. These publications advise individuals how to avoid marketplace problems and how to resolve questions or complaints if they do arise. (3) Promotes cooperation between international, Federal, State, local, nonprofit, and private sector entities involved in the marketplace, emphasizing the need for ethical business practices, regulation and legislation where needed and appropriate, and voluntary efforts to promote consumer interests through education, dispute resolution and policy coordination. The Director chairs the delegation from the United States to the Committee on Consumer Policy of the Organization for Economic Cooperation and Development, at which international marketplace principles are harmonized. (4) Promotes improved consumer skills through education programs which emphasize practical application of skills learned in elementary, secondary and post-secondary schools, as well as public and private sector programs which target specific consumer issues to be addressed by media information

campaigns, workshops, facts sheets and other publications. (5) Identifies, analyzes and focuses attention on needs, interests and marketplace problems of consumers by conducting surveys, conferences, and working groups, both independently and in conjunction with other government agencies, nonprofit organizations, and the private sector.

B. Office of the Director. Directs and coordinates the activities of the U.S. Office of Consumer Affairs.

C. Division of Public and Legislative Affairs. Participates in the design and enactment of the President's consumer legislative program, including preparation of congressional testimony and serving as congressional liaison; prepares and reviews materials for presentation to Federal Departments and Agencies; reviews and prepares comments on proposed Federal regulations; is responsible for USOCA relations with the press and media, the Congress and the public; prepares speeches, articles and syndicated radio programs; designs programs for dissiminating important consumer information to the public; and oversees all necessary legal services for USOCA.

D. Division of Planning, Budget and Evaluation. Develops comprehensive plans for programs of USOCA and develops and implements systems to evaluate staff effectiveness. Recommends and applies administrative policy and procedures; is responsible for the activities of USOCA in the areas of financial management, procurement, personnel and record keeping; and provides advice and recommendations to the Director on alternatives to achieve USOCA program objectives.

E. Division of Policy and Education Development. Monitors and evaluates ongoing programs and emerging issues in Federal agencies affecting consumers, with a view to determining the effectiveness of current and proposed programs, particularly as they impact on the unique needs of special interest groups; develops and recommends new programs to insure that each agency of the Federal Government adequately responds to consumer needs in the development of policy; encourages private industry voluntarily to develop self-regulatory programs and to adopt competitive policies and programs; coordinates staff assistance to the Chairperson of the Consumer Affairs Council; responds to consumer complaints; conceives and facilitates implementation of programs to enhance consumer and economic education through the efforts of government, education institutions, business, voluntary groups and individual citizens; provides services to consumer educators; and promotes a broad multi-disciplinary approach that seeks to unify and focus the efforts of those engaged in consumer and economic education programs.

F. Division of Business, Consumer and International Liaison. Maintains liaison with Federal, State, county, and city government officials responsible for consumer matters; serves as focal point for liaison with individual consumers and with national, State and local voluntary organizations which represent consumers and citizens; provides adequate opportunities for consumer participation in the decision making process; maintains liaison with trade association and industry as necessary, including encouraging initiation of programs aimed at resolving complaints common to large numbers of consumers; maintains liaison with representatives of other nations, particularly within the framework of the Committee on Consumer Policy of the Organization for Economic Cooperation and Development; and serves as the principal USOCA unit responsible for development and coordination of conferences and meetings on consumer matters.

Section AW.30 Order of Succession. In the absence or incapacity of the Director, the Deputy Director shall act as Director, USOCA.

Section AW.40 Delegation of Authority. The exercise of authority and duties of the Director, USOCA are set forth in the Executive Orders cited in section AW.00, above. Authority is exercised under Executive Order 11583 through the staff of the U.S. Office of Consumer Affairs and under Executive Order 12160 through the Consumer Affairs Council comprised of representatives of Federal departments and agencies.

Dated: June 26, 1991.

Elizabeth M. James,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 91-15897 Filed 7-3-91; 8:45 am]

BILLING CODE 4190-04-M

Administration on Aging

Agency Information Collection Under OMB Review

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) for approval an existing information collection, Supplemental Form to the Financial Status Report (SF-269), title III of the Older Americans Act, Grants for State and Community Programs on Aging.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Angela Antonelli, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503 (202) 395-7316.

Information on Document

Title: Supplemental Form to the Financial Status Report (SF-269), title III of the Older Americans Act, Grants for State and Community Programs on Aging.

OMB No.: 0980-0205.

Description: Sections 304, 307, and 308 of the Older Americans Act of 1965, as amended, require the Administration on Aging (AoA) to monitor the use of title III program funds allocated to the State Agencies on Aging. In order for AoA to effectively monitor these program funds and determine that these funds are used for the purposes for which the allotments are made, specific financial data relating to program activities must be collected from the States. These data include the amount of program funds expended for State agency administration, area plan administration, supportive services, long term care ombudsman activities funded by the supportive services allotment, nutrition services, in-home care for the elderly, ombudsman and elder abuse activities. It is also necesasry to collect data on the amount of program income expended for each program activity.

In Fiscal Year (FY) 1991, the ombudsman and elder abuse programs under title III of the Older Americans Act were funded by separate allotments. Consequently, AoA has revised the current OMB-approved AoA Supplemental Form to the Financial Status Report (SF-269), which expires on June 30, 1992, in order to include data on these programs.

Annual Number of Respondents: 57

Annual Frequency: 4

Average Burden Hours Per Response: 0.5

Total Burden Hours: 114

Dated: June 24, 1991.

Joyce T. Berry,

U.S. Commissioner on Aging.

[FR Doc. 91-15995 Filed 7-3-91; 8:45 am]

BILLING CODE 4130-01-M

Health Care Financing Administration

[OIS-013-N]

Medicare Program; Quarterly Listing of Program Issuances and Coverage Decisions

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretative regulations and other **Federal Register** notices, and statements of policy that were published during January, February, and March 1991 that relate to the Medicare program. Section 1871(c) of the Social Security Act requires that we publish a list of our Medicare issuances in the **Federal Register** at least every three months.

We also are providing the content of the revision to the Medicare Coverage Issues Manual published during this quarter. On August 21, 1989 (54 FR 34555), we published the content of the Manual and indicated that we will publish quarterly any updates. Adding the Medicare Coverage Issues Manual changes to this listing allows us to fulfill this requirement in a manner that facilities identification of coverage and other changes in our manuals.

FOR FURTHER INFORMATION CONTACT:

Allen Savadkin, (301) 966-5265. (For Instruction Information)

Sam DellaVecchia, (301) 966-5316. (For Coverage Information)

Margaret Teeters, (301) 966-4678. (For All Other Information)

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare program, a program that pays for health care and related services for 34 million Medicare beneficiaries. Administration of the program involves (1) providing information to beneficiaries, health care providers, and the public; and (2) effective communications with regional offices, State governments, various providers of health care, fiscal intermediaries and carriers who process claims and pay bills, and others. To implement the various statutes on which the program is based, we issue regulations under authority granted the Secretary under sections 1102 and 1871 and related provisions of the Social Security Act (the Act) and also issue various manuals, memoranda, and statements necessary to administer the program efficiently.

Section 1871(c)(1) of the Act requires that we publish in the **Federal Register** no less frequently than ever three months a list of all Medicare manual instructions, interpretative rules, statements of policy, and guidelines of general applicability not issued as regulations. We published our first notice June 9, 1988 (53 FR 21730). As in prior notices, although both substantive and interpretative regulations published in the **Federal Register** in accordance with section 1871(a) of the Act are not subject to the publication requirement of section 1871(c), for the sake of completeness of the listing of operational and policy statements, we are including these regulations (proposed and final) published.

II. Coverage Issues

We receive numerous inquiries from the general public about whether specific items or services are covered under Medicare. Providers, carriers and intermediaries have copies of the Medicare Coverage Issues Manual, which identifies those medical items, services, technologies, or treatment procedures that can be published a notice in the **Federal Register** (54 FR 34555) that contained all the Medicare coverage decisions issued in that manual.

In that notice, we indicated that revision to the Coverage Issues Manual will be published at least quarterly in the **Federal Register.** We also sometimes issue proposed or final national coverage decision changes in separate Federal Register notices. Table IV of this notice contains the text of revisions to the Coverage Issues Manual published between January 1 and March 31, 1991. Readers should find this an easy way to identify both issuance changes to all our manuals and the text of changes to the Coverage Issues Manual.

Revisions to the Coverage Issues Manual are not published on a regular basis but on an as needed basis. We publish revisions as a result of technological changes, medical practice changes, responses to inquires we receive seeking clarifications, or the resolution of coverage issues under Medicare. If no Coverage Issues Manual revisions were published during a particular quarter, our listing will reflect that fact.

Not all revisions to the Coverage Issues Manual contain major changes. As with any instruction, sometimes minor clarifications or revisions are made within the text. We have reprinted manual revisions as transmitted to manual holders. The new text is shown in italics. We will not reprint the table of contents, since the table of contents serves primarily as finding aid for the user or the manual and does not identify items as covered or not.

We issued our first update that included the text of changes to the Coverage Issues Manual on March 20, 1990 (55 FR 10290) and our second on February 6, 1991 (56 FR 4830). The issuance update found in Table IV of this notice, when added to material from the manual published on August 21, 1989, and the updates published on March 20, 1990 and February 6, 1991, constitute a complete manual as of March 31, 1991. Parties interested in obtaining a copy of the manual and revisions should follow the instructions in section IV of this notice.

III. How to Use the Listing

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretative regulations, or coverage decisions published during this timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Most notably, those unfamiliar with a description of our manuals may wish to review table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577); those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication; and those seeking information on the location of regional depository libraries may wish to review table IV of our first notice. We have divided this current listing into four tables.

Table I describes where interested individuals can get a description of all previously published HCFA manuals and memoranda.

Table II of this notice lists, for each of our manuals or Program Memoranda, a transmittal number unique to that instruction and its subject matter. A transmittal may consist of a single instruction or many. Often it is necessary to use information in a transmittal in conjunction with information currently in the manuals.

Table III lists all substantive and interpretative Medicare regulations and general notices published in the **Federal Register** during this period. For each item, we list the date published, the title of the regulation, and the Parts of the

Code of Federal Regulations (CFR) which have changed.

Table IV sets forth the revision to the Medicare Coverage Issues Manual that was published during this quarter. For the revision, we give a brief synopsis of the revision as it appears on the transmittal sheet, the manual section number, and the title of the section. We present a complete copy of the revised material, no matter how minor the revision, and identify the revision by printing in italics the text that was changed. If the transmittal includes material unrelated to the revised sections, for example, when the addition of revised material causes other sections to be repaginated, we do not reprint the unrelated material.

IV. How to Obtain Listed Material

A. Manuals

An individual or organization interested in routinely receiving any manual and revisions to it may purchase a subscription to that manual. Those wishing to subscribe should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, Washington, DC 20402, Telephone (202) 783-3238; National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487-4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS will give complete details on how to obtain the publications they sell.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or may subscribe to the **Federal Register** by contacting the Government Printing Office at the following address: Superintendent of Documents, Government Printing Office, Washington, DC 20402 Telephone (202) 783-3238. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

C. Rulings

Rulings are published on an infrequent basis by HCFA. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We also sometimes publish Rulings in the **Federal Register.**

V. How to Review Listed Material

Transmittals of Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the Federal Depository Library program, government publications are sent to approximately 1400 designated libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as an FDL. To locate the nearest FDL, individuals should contact any library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of nearly every Federal Government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Table II, along with the HCFA publication and transmittal numbers. To help FDLs locate the instruction, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual, part 3, Claims Process (HCFA-Pub. 13-3) transmittal entitled "Claims Processing Timeliness," use the Superintendent of Documents No. HE 22.8/6 and the HCFA transmittal number 1510.

VI. General Information

It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons. Individuals are expected to purchase copies or arrange to review them as noted above.

Questions concerning items in tables I or II may be addressed to Allen Savadkin, Office of Issuances, Health Care Financing Administration, room 688 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (301) 966-5265.

Questions concerning items in table IV may be addressed to Sam DellaVecchia, Office of Coverage and Eligibility Policy, Health Care Financing Administration, room 445 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (301) 966-5316.

Questions concerning all other information may be addressed to Margaret Teeters, Regulations Staff, Health Care Financing Administration, room 132 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, Telephone (301) 966-4678.

TABLE I.—DESCRIPTION OF MANUALS, MEMORANDA AND HCFA RULINGS

An extensive descriptive listing of manuals and memoranda was previously published at 53 FR 21730 and supplemented at 53 FR 36891 and 53 FR 50577. Also, for a complete description of the Medicare Coverage Issues Manual, please review 54 FR 34555.

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY-MARCH 1991

Trans. No.	Manual/subject/publication No.
Intermediary Manual—Part 3—Claims Process (HCFA-Pub. 13-3) (Superintendent of Documents No. HE 22.8/6)	
IM-91-1	Implementation of the Omnibus Budget Reconciliation Act of 1990.
1508	Skilled Nursing Facility Denial Letters.
1509	PRO Reporting on Medicare Review.
	Provider Electronic Billing and Record Format.
1510	Claims Processing Timeliness.
1511	Provider Access to Limited Common Working File Eligibility Data.
	Eligibility Data Available.
	Part A Inquiry/Inquiry Reply Screen Delay—HIQA.

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY-MARCH 1991—Continued

Trans. No.	Manual/subject/publication No.
	Part A Inquiry/Inquiry Reply Data—HIQA.
1512	Swing-Bed Services.
1513	Reconsideration Information Management System.
	Instructions for Completing and Entering Record Information from Form HCFA-354, Part A Post-Hearing Input Record.
1514	Payment of Epoetin.
	Review of ESRD Bills Under Method I.
	Coding Structures.
1515	Outpatient Denial Letters.
	Miscellaneous Denial Letters.
	Limitation of Liability and Appeals Paragraphs—All Providers (Except Inpatient Hospitals).
1516	Rural Health Clinics General.
	Comprehensive Outpatient Rehabilitation Facilities.
	Carriers Manual—Part 3—Claims Process (HCFA-Pub. 14-3) (Superintendent of Documents No. HE 22.8/7)
1377	Limits on Actual and Prevailing Charges for Overpriced Procedures.
1378	Determining Reasonable Charges for the Services of Assistants at Surgery.
1379	Prosthetic Devices.
	Definition of Ambulatory Surgical Center.
	Ambulatory Surgical Center Services.
	Services Furnished in Ambulatory Surgical Centers Which Are Not Ambulatory Surgical Center Facility Services.
	Coverage of Services in Ambulatory Surgical Centers Which Are Not Ambulatory Surgical Center Services.
	List of Covered Ambulatory Surgical Center Procedures.
	Nature and Applicability of Ambulatory Surgical Center List.
	Nomenclature and Organization of the List.
	Payment to Ambulatory Surgical Centers.
	Carrier Adjustment of Payment Rates.
	Wage Index for Determining Ambulatory Surgical Center Facility Payments.
1380	Payments Under Fee Schedules for Radiologist Services.
	Special Limits Applicable to Radiological Services Paid on a Reasonable Charge Basis.
	Payment for Screening Mammography.
1381	Reduction in Prevailing Charges for Certain Physician Services and Limit on Reasonable Charges for Technical Components of Certain High Volume Diagnostic Tests.
1382	Rebundling of CPT-4 Codes.
1383	Incentive Payments to Physicians for Services Rendered in a Health Manpower Shortage Area.
1384	Conversion Factors for Services of Qualified Anesthetists Furnished on or After January 1, 1991.
	Payment for Physician Anesthesia Services.
	Determining Reasonable Charges for Medically Directed Anesthesia Services.
	Payment for Physician Pathology Services Furnished After December 31, 1990.
	Program Memorandum Intermediaries (HCFA-Pub. 60A) (Superintendent of Documents No. HE 22.8/6-5)
A-91-1	Change in Hospice Payment Rates.
A-91-2	Composite Rate Payments Effective January 1, 1991.
	Program Memorandum Carriers (HCFA-Pub. 60B) (Superintendent of Documents No. HE 22.8/6-5)
B-91-1	Revised Carriers Electronic Media Claims Specifications (Attachments to Carriers Copy Only).
B-91-2	Restriction on Payment to Referring Laboratories.
B-91-3	Payment for Seat Lifts.
B-91-4	1991 Reasonable Charge Update.
	Program Memorandum Intermediaries/Carriers (HCFA-Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6-5)
AB-90-13	Reduction in Part B Payments from November 1, 1990 through December 31, 1990.
AB-91-1	Prosthetic/Orthotic Fee Schedules—Payment for Eyeglasses or Contact Lenses Furnished Subsequent to Cataract Surgery.
	State Operations Manual—Provider Certification (HCFA-Pub. 7) (Superintendent of Documents No. HE 22.8/12)
244	Meaning of Providers and Suppliers.
	Screening Mammography, Citations and Description.
	Interim Survey and Certification Process.
	Interpretive Guidelines.
245	Organization of Home Health Agency.
	Home Health Agency Survey Process for Determining Quality of Care.
	The Standard Survey—Structure.
	Clinical Record and Home Visit Selection for the Standard Survey.
	Conducting Home Visits.
	Assessing Compliance and Recording Information.
	Exit Conference.
	Home Health Agencies—Citations and Description.
	Home Health Agency Survey and Deficiencies Report.
	Home Health Functional Assessment Instrument.
	Model Letter, Consent for Home Visit.
	Home Health Agencies Interpretive Guidelines.
246	Independent Laboratories—Citations and Description.
	Determination of Independent Status.
	Survey of Mobile Laboratories.
	Survey of Separate Laboratory Facilities and Branch Laboratories.
	Survey of Blood Banks and Transfusion Services.
	Other Laboratory Entities Not Subject to Certification.
	Voluntary Request by Physician's Office, Group Practice, or Other Laboratory.
	Blood Banks and Transfusion Services.

TABLE II.—MEDICARE MANUAL INSTRUCTIONS, JANUARY–MARCH 1991—Continued

Trans. No.	Manual/subject/publication No.
	Laboratory Identification Chart. Confirming Qualifications of Laboratory Personnel. Emphasis, Components, and Applicability. The Survey Report. Reporting Transfusion Related Fatalities to FDA. Surveys of Histocompatibility Testing Laboratories. Survey Procedures and Interpretive Guidelines for Regulated Laboratories.
	Regional Office Manual—Part 2—Medicare (HCFA-Pub. 23-2) (Superintendent of Documents No. HE 22.8/8)
312	Instructions for Completing the Regional Office All Trunks Busy Report. Instructions for Entering the Medicare Contractor Workload System. Regional Office All Trunks Busy Report.
	Regional Office Manual—Part 4—Standards and Certification (HCFA-Pub. 23-4) (Superintendent of Documents No. HE 22.8/8-3)
49	Assignment of Provider and Supplier Identification Numbers.
50	Regional Office Review of Administrative Law Judge Adversarial Hearing Decisions. Regional Office Notice of Reconsidered Determination. Hearing on Section 1910(b) Cancellation of Medicaid Eligibility. Appeal of State Nonrenewals, Denials, Cancellations or Terminations of Medicaid Nursing Facilities and Intermediate Care Facilities for the Mentally Retarded.
	Hospital Manual (HCFA-Pub. 10) (Superintendent of Documents No. HE 22.8/2)
IM-91-1	Implementation of the Omnibus Budget Reconciliation Act of 1990.
608	Claims Processing Timeliness.
609	Swing-Bed Services.
610	Special Instructions on Completion of the HCFA-1450 Billed by Hospital-Based Renal Dialysis Facilities Under Method I. Payment of Epoetin. Coding Structures.
	Home Health Agency Manual (HCFA-Pub. 11) (Superintendent of Documents No. HE 22.8/5)
242	Billing for Part B Intermediary Outpatient Speech-Language Services. Billing for Durable Medical Equipment and Orthotic/Prosthetic Devices.
	Rural Health Clinic Manual (HCFA-Pub. 27) (Superintendent of Documents No. HE 22.8/19:985)
41	Rural Health Clinic Services Defined. Clinical Psychologist and Clinical Social Worker Services. Mental Health Services Limitation Expenses Incurred for Physicians', Psychologists' and Clinical Social Workers' Services Rendered in a RHC Setting.
	Renal Dialysis Facility Manual (HCFA-Pub. 29) (Superintendent of Documents No. HE 22.8/13)
49	Payment of Epoetin. Completion of Form HCFA-1450 by Independent Facilities for Home Dialysis Items and Services Billed Under the Composite Rate (Method I).
	Coverage Issues Manual (HCFA-Pub. 6) (Superintendent of Documents No. HE 22.8/14)
45	Magnetic Resonance Imaging.
	Health Maintenance Organization/Competitive Medical Plan Manual (HCFA-Pub. 75) (Superintendent of Documents No. HE 22.8/21)
6	Distinguishing Between Grievances and Appeals. Complaints Which Apply Both to Appeals and Grievances. Claims Processed by Carriers and Intermediaries. Inform Member of Appeals Rights. Enrollee Representation by a Physician, Provider or Supplier. Review of Reconsideration Not Fully Favorable to the Enrollee. Reopenings. Grievances. Steps in the Appeals Process. Initial Determinations. Reconsiderations. Hearings.
	Provider Reimbursement Manual—Part 1—(HCFA-Pub. 15-1) (Superintendent of Documents No. HE 22.8/4)
358	Necessary. Bond Discount and Expenses Treated Separately. Costs Included in Capital-Related Costs. Interest on Zero Coupon Bonds. Effective Interest Method. Allowable Costs.
	Provider Reimbursement Manual—Part 1—Chapter 27 (HCFA-Pub. 15-27) Reimbursement for ESRD and Transplant Services (Superintendent of Documents No. HE 22.8/4)
15	Calculation of a Facility's Composite Payment Rate. Initial Method of Payment for Physicians' Services to Maintenance Dialysis Patients. Reimbursement for Dialysis Sessions Furnished to Patients Who are Travelling. Payment Under the Composite Rate for Intermittent Peritoneal Dialysis. Instructions for Review and Submittal of the Cost Reporting Forms.

TABLE III.—REGULATIONS AND NOTICES PUBLISHED JANUARY–MARCH 1991

Publication date/cite	42 CFR Part	Title
	Final Rules	
01/07/91 (56 FR 568)	412	Medicare Program; Mid-Year FY 1991 Changes to the Inpatient Hospital Prospective Payment System (Correction Notice Published 03/07/91 (56 FR 9633).
01/22/91 (56 FR 2138)	410, 411	Medicare Program; Payment to Federally Funded Health Facilities.
02/05/91 (56 FR 4675)	410	Medicare Program; Medicare Coverage of Screening Mammography (Correction for Interim Final Rule with Comment Period Published 12/31/90 (55 FR 53510)).
03/01/91 (56 FR 8832)	400, 405, 406, 408, 409, 410, 413, 416, 417, 424, 430, 431, 435, 436, 440, 441, 447, 455, 482, 485, 489, 491, 498.	Medicare and Medicaid Programs; OBRA '87 Conforming Amendments.
02/28/91 (56 FR 8476)	412	Medicare Program; Prospective Payment System for Inpatient Hospital Capital-Related Costs.

Publication date/cite	Title
	Notices
01/03/91 (56 FR 279)	Medicare Program; Medicare Economic Index Update for 1991.
01/07/91 (56 FR 562)	Medicare Program; Legislative Changes Concerning Payment to Hospitals for Federal Fiscal Year 1991.
01/08/91 (56 FR 699)	Medicare Program; National Standardization of "Global Surgery" Policy.
01/11/91 (56 FR 1200)	Medicare Program; Changes to the Medicare Secondary Payer (MSP) Provisions.
02/06/91 (56 FR 4830)	Medicare Program; Quarterly Listing of Program Issuances and Coverage Decisions (Correction Published 03/05/91 (56 FR 9251)).
02/27/91 (56 FR 8206)	Medicare Program; Withdrawal of Coverage of Extracranial-Intracranial Arterial Bypass Surgery for the Treatment or Prevention of Stroke.
02/27/91 (56 FR 8208)	Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rates Beginning January 1, 1991.
03/27/91 (56 FR 12736)	Medicare Program; Peer Review Organization Contracts: Solicitation of Statements of Interest from In-State Organizations (DE, KY, NE, NV, SC, WY).
03/28/91 (56 FR 12934)	Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning On or After July 1, 1989.

TABLE IV.—MEDICARE COVERAGE ISSUES MANUAL

(For the reader's convenience, new material and changes to previously published material are in italics. If any part of a line in the manual instruction has changed, the entire line is shown in italics. The transmittal includes material unrelated to revised sections. We are not reprinting the unrelated material.)

(Transmittal No. 45; section 50-13 Magnetic Resonance Imaging Changed Implementing Instructions—Effective Date: Services performed on or after 3/04/91.)

Section 50-13, Magnetic Resonance Imaging.—This section has been revised to provide coverage of surface coils used to enhance the image, and gating devices used to compensate for the motion of body parts when used in conjunction with MRI.

This section has also been revised to indicate that paramagnetic contrast agents have been approved by the Food and Drug Administration (FDA) and be covered as part of the MRI modality.

50-13 MAGNETIC RESONANCE IMAGING (Effective for services performed on or after 11-22-85.)

Magnetic resonance imaging (MRI), formerly called nuclear magnetic resonance (NMR), is covered under Medicare when furnished as described below for the types of covered conditions described in this instruction.

A. General

1. Method of Operation.—Magnetic resonance imaging is a noninvasive method of graphically representing the distribution of water, and other hydrogen-rich molecules in the human body. In contrast to conventional radiographs or CT scans, in which the image produced by X-ray beam attenuation by an object, MRI is capable of producing images by several techniques. In fact, various combinations of MR image production methods may be employed to emphasize particular characteristics of the tissue of body part being examined. The basic elements by which MRI produces an image are the density of hydrogen nuclei in the object being examined, their motion, and the relaxation times, the period of time required for the nuclei to return to their original states in the main, static magnetic field after being subjected to a brief additional magnetic field. These relaxation times reflect the physical-chemical properties of tissue and the molecular environment of its hydrogen nuclei. Only hydrogen atoms are present in human tissues in sufficient concentration for current use in clinical MRI.

2. General Clinical Utility.—Overall, MRI is a useful diagnostic imaging modality that is capable of demonstrating a wide variety of soft-tissues lesions with contrast resolution equal or superior to CT scanning in various parts of the body.

Among the advantages of MRI are the absence of ionizing radiation and the ability to achieve high levels of tissue contrast resolution without injected iodinated radiological contrast agents. Recent advances in technology have resulted in development and Food and Drug Administration (FDA) approval of new paramagnetic contrast agents for MRI which allow even better visualization in some instances. Multislice imaging and the ability to image in multiple planes, especially sagittal and coronal, have provided a flexibility not easily available with other modalities. Because cortical (outer layer) bone and metallic prostheses do not cause distortion of MR images, it has been possible to visualize certain lesions and body regions with greater certainty than has been possible with CT. The use of MRI on certain soft tissue structures for the purpose of detecting disruptive, neoplastic, degenerative or inflammatory lesions has now become established in medical practice.

B. Covered Clinical Applications—Although several uses of MRI are still considered investigational, and some uses are clearly contraindicated (see subsection D), MRI is considered medically efficacious for a number of uses. Use the following descriptions as general guidelines or examples of what may be considered covered, rather than

as a restrictive list of specific coverages. Coverage is limited to MRI units which have received FDA premarket approval and such units must be operated within the parameters specified by the approval. As with all items and services, the services must be reasonable and necessary for the diagnosis or treatment of the specific patient involved.

MRI is useful in examining the head, central nervous system and spine. Multiple sclerosis can be diagnosed with MRI and the contents of the posterior fossa are visible. The inherent tissue contrast-resolution of MRI makes it an appropriate standard diagnostic modality for general neuroradiology. Although MRI can be used to detect degeneration of intervertebral discs, radiological imaging is the preferred modality for diagnosing disc herniation or prolapse. However, in some cases, especially when sensitivity to radiological contrast agents exists and their use incontraindicated, MRI may be covered.

MRI can assist in the differential diagnosis of mediastinal and retroperitoneal masses including abnormalities of the large vessels such as aneurysms and dissection. When a clinical need exists to visualize the parenchyma of solid organs to detect anatomic disruption or neoplasia, this can be accomplished in *the liver, urogenital system, adrenals, and pelvic organs without the use of radiological contrast materials. When MRI is considered reasonable and necessary, the use of paramagnetic contrast materials may be covered as part of the study. MRI may also be used to detect and stage pelvic and* retroperitoneal neoplasms, and to evaluate disorders of cancellous bone and soft tissues. It may also be used in the detection of pericardial thickening.

Primary and secondary bone neoplasm and aseptic necrosis can be detected at an early stage and monitored with MRI. Patients with metallic prostheses, especially of the hip, can be imaged in order to detect the early stages of infection of the bone to which the prothesis is attached.

C. Gating Device and Surface Coils. (Effective for services on-or after 3/04/91—Gating devices which eliminate distorted images caused by cardiac and respiratory movement cycles are now considered state of the art techniques and may be covered. Surface and other specialty coils may also be covered as they are used routinely for high resolution imaging where small limited regions of the body are studied. They produce signal-to-noise ratios resulting in images of enhanced anatomic detail.

D. *Contraindications and Non-Covered Uses.*—

1. Contraindications.—MRI is not covered when the following patient-specific contraindications are present. It is not covered for patients with cardiac pacemakers or with metallic clips on vascular aneurysms. MRI during a viable pregnancy is also contraindicated at this time. The danger inherent in bringing ferromagnetic materials within range of MRI units generally constrains the use of MRI on acutely ill patients requiring life support systems and monitoring devices which employ ferromagnetic materials. In addition, the long imaging time and the enclosed position of the patient may result in claustrophobia, making patients who have a history of claustrophobia unsuitable candidates for MRI procedures.

2. Non-Covered Uses.—Several uses of MRI have been identified as investigational and are not covered. These include measurement of blood flow and spectroscopy. In addition, MRI is not suitable for the imaging of cortical bone and calcifications, and for procedures involving spatial resolution of bone and calcifications.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Date: June 25, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91-15997 Filed 7-3-91; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-33]

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, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: July 5, 1991.

ADDRESSES: For further information, contact James N. Forsberg, Room 7262, Department of Housing and Urban Development, 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), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended HUD publishes a Notice, on a weekly basis, to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.). today's notice is for the purpose of announcing that no additional properties have been reviewed for suitability this week.

Dated: June 28, 1991.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 91-15824 Filed 7-3-91; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-09-4333-11; NV065-91-02]

Nevada; Temporary Closure of Certain Public Lands in the Las Vegas and Battle Mountain Districts for Management of the 1991 Pahrump Station Nevada 500 Off-Highway Vehicle (OHV) Race

ACTION: Temporary closure of certain Public Lands in the Clark, Nye, and Esmeralda Counties, Nevada, on and adjacent to the 1991 Nevada 500 race course, from August 9, 1991 through August 11, 1991. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittees and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in Las Vegas and Battle Mountain Districts, Clark, Nye, and Esmeralda Counties, Nevada will be temporarily closed to public access from 0001 hours, August 9, 1991, to 0300 hours, August 11, 1991, to protect persons, property, and public land resources on and adjacent to the 1991 Nevada 500 OHV race course. The Battle Mountain

District Manager is the authorized officer for the 1991 Nevada 500 OHV race and permit number (NV065-91-02). These temporary closures and restictions are made pursuant to 43 CFR part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1991 Nevada 500 OHV race course.

The following public lands restricted or closed are described as:

The Pahrump area, T. 20 S., R. 53 E., all of section 14; T. 20 S., R. 54 E., all of sections 3, 4, 7, 8, 9, and 18; T. 19 S., R. 54 E., all of sections 19, 20, 25, 26, 27, 28, 29, 34, 35, and 36; T. 19 S., R. 53 E., all of sections 1, 2, 3, 4, 5, 11, 12, 13, 14, 23, and 24; T. 18 S., R. 53 E., all of sections 6, 7, 18, 19, 29, 30, 32, 33, 34, and 35; the Johnnie area, T. 18 S., R. 52 E., all of sections 1, and 12; T. 17 S., R. 52 E., all of sections 4, 6, 9, 10, 21, 26, 27, 28, 35, and 36; the Point of Rocks area, T. 16 S., R. 52 E., all of sections 19, 20, 21, 28, and 33; T. 16 S., R. 51 E., all of sections 7, 16, 17, 18, 21, 22, 23, and 24; the Lathrop Wells area, T. 16 S., R. 50 E., all of sections 6, 7, 8, 9, 20, 11, and 12; T. 16 S., R. 49 E., all of sections 1, 2, 3, 4, 5, 9, 10, 11, and 12; T. 15 S., R. 49 E., all of sections 29, 30, 31, and 32; the Armagosa Farm Road area, T. 15 S., R. 48 E., all of sections 4, 9, 10, 14, 15, 23, 24, and 25; T. 14 S., R. 48 E., all of sections 29, 30, 31, and 32; T. 14 S., R. 47 E., all of sections 13, 14, 15, 19, 21, 22, 23, 24, 28, 29, 30, 32, and 33; T. 14 S., R. 46 E., all of sections 11, 12, 13, and 24; the Beatty area, T. 13 S., R. 47 E., all of sections 19, 29, 30, 31, and 32; T. 13 S., R. 46 E., all of sections 2, 3, 11, 12, 13, 23, 24, 26, and 35; the Bullfrog Hills area, T. 11 S., R. 47 E., all of sections 7, and 18; T. 11 S., R. 46 E., all of sections 1, 6, 7, 12, 13, 18, 19, 20, 24, 25, 26, 28, 29, 33, 34, and 35; the Sarcobatus Flats area, T. 10 S., R. 46 E., all of sections 7, 18, 19, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 36; T. 10 S., R. 45 E., all of sections 1, 2, 12, 30, 31, 32, 33, 34, 35, and 36; T. 10 S., R. 44 E., all of sections 2, 3, 11, 13, 14, 24, and 25; T. 9 S., R. 45 E., all of sections 19, 20, 27, 28, 29, 34, and 35; T. 9 S., R. 44 E., all of sections 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 20, 21, 23, 24, 27, 28, and 34; the Bonnie Claire area, T. 8 S., R. 44 E., all of sections 18, 19, 30, and 32; T. 8 S., R. 43 E., all of sections 1, 12, 13, 19, 20, 21, 23, 24, 25, 26, 27, 28, and 36; the Gold Point area, T. 8 S., R. 42 E., all of sections 3, 4, 10, 11, 13, 14, and 24; T. 7 S., R. 43 E., all of sections 31, 32, and 36; T. 7 S., R. 41½ E., all of sections 33, 34, 35, and 36; T. 7 S., R. 41 E., all of sections 2, 11, 14, 23, 24, 25, 26, 35, and 36; the Lida Valley area, T. 6 S., R. 41 E., all of sections 2, 3, 4, 7, 8, 9, 16, 17, 18, 21, 22, 27, 34, and 35; the Palmetto Mountains area, T. 5 S., R. 41 E., all of sections 2, 5, 6, 10, 11, 14, 15, 23, 24, 25, 26, and 35; T. 4 S., R. 41 E., all of sections 28, 29, 31, 32, and 33; T. 4 S., R. 40½ E., all of sections 31, 32, and 33; T. 4 S., R. 40 E., all of sections 3, 4, 9, 10, 15, 16, 21, 22, 23, 24, 25, 26, and 31; the Clayton area, T. 3 S., R. 40 E., all of sections 19, 29, 30, and 32; T. 3 S., R. 39 E., all of sections 2, 4, 8, 9, 11, 12, 13, 17, 19, 20, 24, and 30; the Silver Peak Range area, T. 2 S., R. 39 E., all of sections 1, 2, 3, 10, 11, 14, 15, 22, 27, 33, 34, and 35; T. 3 S., R. 38 E., all of sections 25, 30, 31, 32, 35, and 36; T. 4 S., R. 38 E., all of sections 2, 4, 5, 9, 10, and 11; T. 3 S., R. 37 E., all of sections 20, 21, 22, 23, 24, 25, 28, 32, and 33; T. 4 S., R. 37 E., all of sections 4, 5, 8, 9, 16, 19, 20, and 21; the Dyer area, T. 4 S., R. 36 E., all of sections 3, 4, 10, 14, 15, 23, and 24; T. 3 S., R. 36 E., all of sections 7, 18, 19, 20, 29, 32, and 33; T. 3 S., R. 35 E., all of sections 1, 2, and 12; the Fish Lake Valley area, T. 2 S., R. 35 E., all of sections 25, 35, and 36; T. 2 S., R. 36 E., all of sections 3, 4, 9, 17, 18, 19, 20, 29, and 30; T. 1 S., R. 36 E., all of sections 1, 14, 15, 22, 23, 24, 27, 33, and 34; T. 1 N., R. 36 E., all of sections 36; the Emigrant Pass area, T. 1 S., R. 37 E., all of sections 6, 7, 8, 17, 19, and 20; T. 1 N., R. 37 E., all of sections 10, 11, 12, 15, 20, 21, 22, 29, and 30; the Old Railroad Grade area, T. 1 N., R. 38 E., all of sections 7, 8, 16, 17, 21, 22, 25, and 26; T. 1 N., R. 38½ E., all of sections 30, 31, 32, and 33; T. 1 S., R. 39 E., all of sections 3, 10, 15, 22, 26, 27, 34, 35, and 36; the Weepah Hills area, T. 1 S., R. 40 E., all of sections 4, 5, 8, 9, 17, 19, 20, 30, and 31; T. 1 N., R. 39 E., all of sections 1, 12, 13, 23, 24, 26, 27, and 35; T. 1 N., R. 40 E., all of sections 1, 3, 4, 6, 10, 11, and 12; T. 1 N., R. 41 E., all of sections 4, 5, and 6; the Tonopah area, T. 2 N., R. 41 E., all of sections 13, 23, 24, 26, 27, 33, and 34; T. 2 N., R. 42 E., all of sections 1, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25, and 26; T. 2 N., R. 43 E., all of sections 30, 31, and 32; T. 1 N., R. 42 E., all of sections 35 and 36; T. 1 N., R. 43 E., all of sections 5, 7, 8, 18, 19, 30, and 31; the Goldfield area, T. 1 S., R. 42 E., all of sections 1, 11, 12, 14, 23, 26, and 35; T. 2 S., R. 42 E., all of sections 2, 11, 14, 23, 26, and 35; T. 3 S., R. 42 E., all of sections 1 and 2; T. 3 S., R. 43 E., all of sections 6, 7, 18, 19, 30, and 31; T. 4 S., R. 43 E., all of sections 6, 7, 8, 17, 18, 19, 30, and 31; the Cottontail Ranch area, T. 5 S., R. 43 E., all of sections 6, 7, 8, 17, 18, 19, 20, 30, and 31; T. 6 S., R. 43 E., all of sections 6; T. 6 S., R. 42 E., all of sections 1, 12, 13, 24, 25, 26, 35, and 36; the Scotty's Junction area, T. 7 S., R. 43 E., all of sections 4, 5, 6, 9, 17, 20, 21, 25, 26, 27, 28, 34, 35, and 36.

The above legal land descriptions are for public lands within Clark, Nye and Esmeralda Counties, Nevada. A map showing specific areas closed to public access is available from the following BLM office: The Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126 (702) 647-5000, and the Battle Mountain District, Tonopah Resource Area Office, Bldg., 102 Old Radar Base, P.O. Box 911, Tonopah, Nevada 89049 (702) 482-6214. Any person who fails to comply with this closure order issued under 43 CFR part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: June 21, 1991.

Ben F. Collins,

District Manager, Las Vegas District.

[FR Doc. 91-15883 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-HC-M

[NM-940-01-4120-14; NMNM 76371-NMNM 86717]

Notice of Coal Lease Offering by Sealed Bid; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Coal Lease Sale.

SUMMARY: *Notice is hereby given that* certain coal resources in the tracts described below in Catron and Cibola Counties, New Mexico, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et. seq.*).

Effective December 7, 1988, the BLM, through the Secretary of the Interior, decertified the San Juan River Federal Coal Production Region, and designated the Federal coal reserves in the region open to lease by application in accordance with 43 CFR 3425.1-5, (**Federal Register**, Vol. 53, No. 215, pp 44596-44597, November 7, 1988). This sale is the result of such an application filed by the Salt River Project Agricultural Improvement and Power District.

At the Regional Coal Team Meeting held in Santa Fe, New Mexico, on February 20, 1991, the State Director, New Mexico State Office, BLM, announced the sale will be limited to public body set-aside leasing. This is authorized by the provisions of the Federal Coal Leasing Amendments Act (FCLAA) of 1976, 30 U.S.C. 201(a)(1), and the regulations in 43 CFR 3420.1-3(b)(1).

DATE: *The lease sale will be held at 10* a.m., Wednesday, July 31, 1991. Sealed bids must be submitted on or before 8 a.m., July 31, 1991. Each bid should be clearly identified by tract or serial number on the outside of the envelope containing the bid(s).

ADDRESS: The lease sale will be held in the BLM Conference Room, 1474 Rodeo Road, Santa Fe, New Mexico. Sealed bids must be submitted to the Cashier, New Mexico State Office, Third Floor, Joseph M. Montoya and Post Office Building, 120 South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87504-1449.

FOR FURTHER INFORMATION CONTACT: Russell Jentsen or Edward Heffern, BLM, New Mexico State Office, 505-988-6109.

SUPPLEMENTARY INFORMATION: The tracts will be leased to the qualified bidder(s) submitting the highest cash offer provided that the high bid meets the fair market value determination of the coal resource. The minimum bid for

this tract is $100.00 per acre or fraction thereof. No bid that is less than $100.00 per acre or fraction thereof, will be considered. This $100.00 per acre is a regulatory minimum, and is not intended to reflect fair market value of the tracts. Bids should be sent by certified mail, return receipt, or be hand delivered. The cashier will issue a receipt for each hand-delivered bid. Bids received after the item specified above will not be considered. The fair market value of each tract will be determined by the authorized officer after the sale.

If identical high sealed bids are received, the tying bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical sealed bids have been received.

Tract No. 1

NMNM 78371

COAL OFFERED: The coal resource to be offered in Tract No. 1 (NMNM 78371), is limited to recoverable reserves by surface mining methods in the following lands located in Catron County, New Mexico:

New Mexico Principal Meridian

T. 3 N. R. 16 W.,
Sec. 5, lots 3 and 4, S½NW¼;
Sec. 6, lots 1 to 6, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼.
T. 4 N., R. 16 W.,
Sec. 31, lots 1 to 4, inclusive, E½, and E½.
T. 3 N., R. 17 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and SW¼;
Sec. 3, lots 1 and 2, S½NE¼, and s½;
Sec. 12, N½, SW¼, and W½SE¼;
Sec. 14, N½.

Containing 3,082.28 acres, more or less.

The total recoverable reserves are estimated to be 19.64 million tons of surface minable coal. Two coal beds which are economically surface minable are found in this tract. Where minable, the ABC bed averages 9.0 feet in thickness and the Tejana bed averages 3.0 feet in thickness. Coal quality (as received) averages 9,200 BTU/lb. with 15 percent moisture, 0.6 percent sulphur, 17 percent ash, 35 percent fixed carbon, and 33 percent volatile matter. Average striping ratio (ft. overburden: ft. coal in place) is 10.0:1.

Recoverable reserves were calculated on the following basis: 20 foot minimum mining depth; 250 foot maximum mining depth or 15:1 maximum stripping ratio, whichever is less; minimum seam thickness of 28 inches; coal density of 1,900 short tons per acre foot; and, 95 percent recovery rate for one seam and 90 percent recovery rate for two seams or more.

Qualified Surface Owner: This tract (NMNM 78371) has three qualified surface owners. Consents granted by the qualified surface owners have been filed with and verified by the BLM. A copy of this consent is attached to the Detailed Statement of Sale. The following surface owner consent lands are included in the tract and total 617.22 acres:

New Mexico Principal Meridian

T. 4 N., R. 16 W.,
Sec. 31, lots 1 to 4, inclusive, E½, and E½W½.

This land is part of a larger surface owner consent package held by Salt River project, which paid $500,000 to acquire the package and $70,000 to maintain these leasehold interests. This package covers a total area of approximately 6,745.95 acres and includes lands outside the tract which are held by the qualified surface owner as well as by one other surface owner. Terms of some agreements in the package may include mineral as well as surface rights. Actual consent agreements and specified terms are attached to the Detailed Statement of Sale.

Tract No. 2

NMNM 86717

The coal resource to be offered in Tract 2 (NMNM 86717), is limited to recoverable reserves by surface mining methods in the following lands located in Catron and Cibola Countries, New Mexico:

New Mexico Principal Meridian

T. 4 N., R. 16 W.,
Sec. 19, SE¼NW¼.
T. 4 N., R. 17 W.,
Sec. 10, SE¼SW¼ and SE¼SE¼;
Sec. 11, S½S½;
Sec. 14;
Sec. 15, E½, E½W½; SW¼NW¼, and W½SW¼;
Sec. 22;
Sec. 23;
Sec. 24, W½NW¼;
Sec. 28, E½;
Sec. 33, NE¼.

Containing 3,360.00 acres, more or less.

The total recoverable coal reserves are estimated to be 9.99 million tons of surface minable coal. Two coal beds which are economically surface minable are found in this tract. Where minable, the ABC bed averages 3.9 feet in thickness and the Tejana bed averages 4.5 feet in thickness. Coal quality (as received) averages 8,500 BTU/lb. with 15 percent moisture, 0.7 percent sulphur, 21 percent ash, 31 percent fixed carbon, and 33 percent volatile matter. Average stripping ratio (ft. overburden: ft. coal in place) is 11.5:1.

Recoverable reserves were calculated on the following basis: 20 foot minimum mining depth; 250 foot maximum mining depth or 15:1 maximum stripping ratio, whichever is less; minimum seam thickness of 28 inches; coal density of 1,900 short tons per acre foot; and, 95 percent recovery rate for one seam and 90 percent recovery rate for two seams or more.

Qualified Surface Owner: This tract (NMNM 86717) has one qualified surface owner. Consents granted by the qualified surface owner have been filed with and verified by the BLM. A copy of this consent is attached to the detailed Statement of Sale. The following surface owner consent lands are included in the tract and total 1,160.00 acres:

New Mexico Principal Meridian

T. 4 N., R. 17 W.,
Sec. 10, SE¼SE¼;
Sec. 22, S½SE¼;
Sec. 23, NE¼, SE¼NW¼, N½SW¼, SW¼SW¼, and SE¼;
Sec. 24, W½NW¼;
Sec. 28, E½;
Sec. 33, NW¼.

This land is part of a larger surface owner consent package held by Salt River Project, which paid $165,000 to acquire the package. This package covers a total area of approximately 38,889.92 acres and includes lands outside the tract which are held by the qualified surface owner as well as by two other surface owners. Terms of some agreements in the package may include mineral as well as surface rights. Actual consent agreements and specific terms are attached to the Detailed Statement of Sale.

Rental and Royalty: Leases issued as a result of this lease offering will require payment of an annual rental of $3.00 per acre or fraction thereof, and a royalty payable to the United States of 12½ percent of the value of the coal mined by surface methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Notice of Availability: Bidding instructions for the offered tract are included in the Detailed Statement of Coal Lease Sale. Copies of the statement and proposed coal lease sale are available upon request in person or by mail from the New Mexico State Office at the address given above. The case files are available for inspection during normal business hours at the address given above.

Dated: June 26, 1991.

Monte G. Jordan,

Associate State Director.

[FR Doc. 91-15973 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-FB-M

[MT-060-01-4212-08]

Management Framework Plan Amendment; Phillips County, MT

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice is hereby given that the UL Bend and Zortman Management Framework Plan will be amended by the Phillips Resource Area, Malta, Montana.

SUMMARY: The Bureau of Land Management proposes selling 10.18 acres of surface estate to Phillips County. Disposal of this land was not analyzed in the UL Bend and Zortman Management Framework Plan. Disposal of Federal land requires that the specific tract be identified in the land use plan with the criteria to be met fro sale and a discussion of how the criteria have been satisfied. This will be part of the plan amendment and environmental assessment.

The site is partially developed as a waste collection facility due to a misinterpretation of county road rights-of-way use by Phillips County. Phillips County will use the land for a solid waste collection site.

The Phillips Resource Area, Lewistown District, Bureau of Land Management will prepare an environmental assessment to analyze the effects of disposal. The Montana Department of Health and Environmental Sciences will be consulted and resultant information incorporated in this environmental assessment.

DATES: Comments and recommendations will be received on or before August 5, 1991. Interested parties may request a copy of the environmental assessment from the Phillips Resource Area, Box B, Malta, MT 59538 on or before August 15, 1991. Comments should be submitted to the above on or before September 15, 1991.

FOR COMMENTS AND FURTHER INFORMATION CONTACT: Bureau of Land Management, Attention Chris Erb, Phillips Resource Area, Box B, Malta, MT 59538.

Dated: June 27, 1991.

B. Gene Miller,

Acting District Manager.

[FR Doc. 91-15977 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-DN-M

[CA-010-01-4333.11]

Meeting of the Bakersfield District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Bakersfield District Advisory Council.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and the Federal Land Policy and Management Act of 1976 (sec. 309), the Bakersfield District Advisory Council will meet in Bakersfield, California.

DATES: July 25-26, 1991.

ADDRESSES: Meeting in the Kern Council of Governments meeting room, 2nd floor, 1401 19th Street, Suite 200, Bakersfield, 8:00 a.m. to 4:00 p.m. Thursday, July 25. Field trip to inspect the District fire fighting program will begin at 8:00 a.m. Friday, July 26 at the Bakersfield District Office, 800 Truxton Avenue, Room 335, Bakersfield.

SUPPLEMENTARY INFORMATION: The Bakersfield District Advisory Council is a 10 member council appointed by the Secretary of the Interior to give counsel and advice regarding planning and management of public lands resources to the District Manager of the Bureau of Land Management Bakersfield District.

The Council will meet on Thursday for an orientation session concerning the issues facing the Bakersfield District. This overview of the District is being presented because there is a new District Manager and five new members of the Council. The agenda will include a discussion of the key land management issues in each of the District's four Resource Areas, including a status report on the land use planning process and how that will affect the use of the public land. The meeting is open to the public, and anyone wishing to address the council about any public land issue may do so during the public comment period from 1:00 to 1:30 p.m., July 25, or at any time during the meeting at the discretion of the chairman. Written comments may be submitted to the address below. A field trip to review the Bakersfield District fire fighting program will take place on Friday, July 26, and will include a tour of the District Communications Center, and firefighting facilities in Bakersfield and on the Kern Plateau. The public is welcome to attend the field trip.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301, telephone 805-861-4229.

Dated: June 26, 1991.

Delbert Fortner,

Acting Associate District Manager.

[FR Doc. 91-15882 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-40-M

[G-910-G1-0422-4111-15; NMNM 82954]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of Oil and Gas Lease NMNM 82954, Lea County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from November 1, 1990, the date of termination.

No valid lease has been issued affecting the land. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16 2/3 percent, respectively. Payment of a $500 administrative fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

Dated: June 25, 1991.

Dolores L. Vigil,

Chief, Adjudication Section.

[FR Doc. 91-15974 Filed 7-3-91; 845 am]

BILLING CODE 4310-FB-M

[ID-943-4212-13; IDI-27425, IDI-27631]

Exchange and Order Providing for Opening of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchanges 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: August 5, 1991.

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-27631 (Conveyed to Denis R. Perron and Deanna L. Perron, of Hailey, Idaho.)
T. 2 N., R. 18 E.,
Sec. 23, SW¼NE¼.

IDI-27425 (Conveyed to Central Idaho Title, Inc. as Trustee for FLEX Northwest, Inc., of McCall, Idaho.)
T. 56 N., R. 1 E.,
Sec. 6, SE¼NW¼.
T. 56 N., R. 1 W.,
Sec. 4, lot 4 and SW¼NW¼.

Comprising 156.23 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

(Acquired from Denis R. Perron and Deanna L. Perron.)
T. 2 N., R. 18 E.,
Sec. 13, W½SW¼;
Sec. 14, NE¼, SE¼NW¼ and S½SE¼;
Sec. 24, N½NW¼.

(Acquired from Central Idaho Title, Inc., as Trustee for FLEX Northwest, Inc.)
T. 47 N., R. 1 E.,
Sec. 12, E½E½.

Comprising 600.00 acres of private land.

The purpose of the exchanges was to acquire non-federal lands which have high public values for water resources, access, wildlife habitat, and administrative efficiency. The public interest was well served through completion of the exchanges. The values of both the Federal and non-Federal lands in the Perron exchange were appraised at $40,000. The values of the Federal and non-Federal lands in the FLEX exchange were appraised at $159,000 and $162,000, respectively.

3. At 9 a.m. on August 5, 1991, 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, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on August 5, 1991, 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 August 5, 1991, the reconveyed private lands described in paragraph 2 will be opened to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: June 24, 1991.

Jimmie Buxton,

Acting Deputy State Director for Operations.

[FR Doc. 91-15884 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-GG-M

[CA-050-4212-13; CA-27838]

Realty Action: Proposed Land Exchange in Lake, Colusa, Napa, Yolo and Mendocino Counties, CA

AGENCY: Department of the Interior.

ACTION: Second Correction to Notice of Realty Action CA-27838, in Lake County, California.

SUMMARY: The Notice of Realty Action published on Thursday, January 31, 1991, in Volume 56, No. 21 of the **Federal Register**, Page 3838 and Page 3839, is hereby corrected as follows:

1. On line 45 in column 3 on page 3838 which reads Sec 15: "* * * remaining private * * *" should read "* * * remaining public * * *"

2. On line 50 in column 3 on page 3838 which reads Sec 20: "Lot SE¼SW¼" should read Sec 20: "SE¼SW¼"

3. On line 64 in column 3 on page 3838 which reads Sec 14: "Lot W½NE¼" * * * should read Sec 1420: "W½ NE¼, * * *"

4. On line 5 in column 1 on page 3839 which reads Sec 19: "Lot SE¼SE¼" should read Sec. 20: "SE¼SE¼"

5. On line 3 in column 2 on page 3839 which reads Sec 2: "NW¼SW¼NE¼ S½NW¼, * * *" should read Sec 2: "NW¼SW¼NE¼, S½NW¼, * * *"

These were in error and are being corrected.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Clear Lake Resource Area Manager, Bureau of Land Management, 555 Leslie Street, Ukiah, California 94582; Phone (707) 462-3873.

Dated: June 25, 1991.

Catherine Robertson,

Clear Lake Resource Area Manager.

[FR Doc. 91-15975 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-40-M

[ID-050-3110-10-D—017; IDI-25288]

Exchange of Public and State Land in Blaine, Camas, Gooding, Jerome, Lincoln and Minidoka Counties, Idaho; Realty Action

AGENCY: Bureau of Land Management [BLM]; Interior.

ACTION: Notice of Realty Action; IDI-25288; Exchange of Public and State Land in Blaine, Camas, Gooding, Jerome, Lincoln, and Minidoka Counties, Idaho.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

Township 7 South, Range 14 East

Section
1: S2SE4
3: S2SE4
10: E2, E2NW4; SW4NW4; NE4SW4
11: ALL
12: ALL
13: N2; SE4; N2SW4
14: NE4; N2NW4; SE4NW4; N2SE4
15: NE4NE4
24: E2NE4
Total acres in township: 2,960.

Township 7 South, Range 15 East

Section
4; Lot 4: W2SW4
5: Lot 1; Lot 2; Lot 3; Lot 4; S2
6: Lot 1; E2SE4
7: Lot; Lot 2; Lot 3; Lot 4; E2; E2W2
8: E2; N2NW4; SW4SW4
9: W2W2
10: S2
11: S2NW4; SW4
13: ALL
14: ALL
15: ALL
17: ALL
18: Lot 1; Lot 2; Lot 3; Lot 4; E2; E2W2
19: Lot 1; Lot 2; NE4; E2NW4; N2SE4
20: N2; W2SW4; NW4SE4
21: N2N2
22: N2; SE4; N2SW4
23: ALL
24: N2; SW4; W2SE4; NE4SE4
26: N2; SW4; W2SE4
27: NE4; E2SE4; NW4SE4
Total acres in township: 9,224.07.

Township 7 South, Range 16 East

Section
8: E2
9: W2

17: ALL
18: Lot 1; Lot 2; Lot 3; Lot 4; E2; E2W2
19: Lot 1; N2NE4; NE4NW4

Total acres in township: 2,002.14.

Comprising 14,186.21 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from the state of Idaho:

Boise Meridian, Idaho

Township 2 South, Range 12 East

Section 36: ALL

Township 3 South, Range 13 East

Section
16: E2
36: ALL

Township 3 South, Range 14 East

Section
16: ALL
36: ALL

Township 3 South, Range 15 East

Section
16: ALL
36: ALL

Township 4 South, Range 13 East

Section 36: Lot 1; Lot 2; Lot 3; Lot 4; Lot 5; Lot 6; NE4; E2NW4; N2SW4; N2SE4

Township 3 South, Range 21 East

Section 36: ALL

Township 4 South, Range 22 East

Section 16: ALL

Township 3 South, Range 23 East

Section 16: ALL

Township 2 South, Range 21 East

Section 36: ALL

Township 2 South, Range 22 East

Section
16: ALL
36: ALL

Township 2 South, Range 23 East

Section 16: ALL

Township 1 South, Range 22 East

Section 36: ALL

Township 6 South, Range 20 East

Section 16: N2; SW4; S2SE4

Township 5 South, Range 21 East

Section 36: W2W2

Township 5 South, Range 20 East

Section 36: ALL

Township 3 South, Range 12 East

Section 16: ALL

Township 3 South, Range 16 East

Section
16: ALL
36: ALL

Township 3 South, Range 17 East

Section 16: ALL

Township 2 South, Range 17 East

Township 2 South, Range 17 East

Section 36: ALL

Township 4 South, Range 12 East

Section 16: ALL

Township 4 South, Range 14 East

Section 16: ALL

Township 4 South, Range 17 East

Section 16: ALL

Township 4 South, Range 20 East

Section 16: ALL.

Comprising 17,666.63 acres of State land.

The purpose of this exchange is to acquire the non-federal land which has high public values for wilderness, livestock grazing, recreation, and riparian habitat. Riparian areas include approximately ten miles of perennial streams, one half mile of reservoir shoreline and numerous springs. Four thousand four hundred eighty (4,480) acres of land consists of State-owned inholdings (isolated parcels) in four Wilderness Study Areas recommended for wilderness by the Bureau.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by acreage adjustment.

Land to be transferred from the United States will be subject to the following reservations, terms, and conditions.

1. A reservation to the United States of America of rights-of-way for ditches and canals constructed under the authority of the Act of Congress approved August 30, 1890 (43 U.S.C. 945).
2. Right-of-way I-8161 Idaho Power Company
3. Right-of-way I-21394 AT&T
4. Right-of-way I-26291 AT&T
5. Right-of-way I-8875 Pacific Power and Light
6. Right-of-way I-26590 Idaho Power Company
7. Right-of-way I-3684 Idaho Department of Transportation
8. Right-of-way H-0648 Union Pacific Railroad
9. Right-of-way I-06854 Idaho Department of Transportation
10. Right-of-way BL-039651 North Side Canal Company
11. Right-of-way I-06667 Idaho Department of Transportation
12. Right-of-way I-20981 Mountain States Telephone & Telegraph
13. Right-of-way I-07773 Intermountain Gas Company
14. Right-of-way I-20494 Mountain States Telephone & Telegraph
15. Right-of-way I-17355 Jerome Highway District

All parties holding Bureau of Land Management rights-of-way on the public land will be given the opportunity to obtain a like authorization from the State of Idaho at the time of title transfer.

Publication of this notice segregates the public land from the operation of the public land laws, including the mineral laws, for a period of two years from the date of first publication.

FOR FURTHER INFORMATION CONTACT: Further information concerning the exchange, including the Environmental Assessment is available for review at the Shoshone District BLM office: Shoshone District BLM, 400 West F Street, P.O. Box 2-B, Shoshone, ID 83352.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of first publication, interested parties may submit comments to the above address or to Realty Specialist Harold Brown at telephone (208) 886-2206.

Dated: June 26, 1991.

Dennis D. Schulze,

Acting District Manager.

[FR Doc. 91-15976 Filed 7-3-91 8:45 am]

BILLING CODE 4310-GG-M

[NM-940-01-4730-12]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on June 25, 1991.

New Mexico Principal Meridian, New Mexico

T. 11 N., R. 2 E., Accepted June 21, 1991, for Group 887 NM.

T. 10 N., R. 2 E., Accepted June 21, 1991, for Group 887 NM.

T. 24 S., R. 25 E., Accepted June 21, 1991, for Group 875 NM.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504-1449. Copies may be obtained from this office upon payment of $2.50 per sheet.

Dated: June 25, 1991.

Steve Beyerlein,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 91-15978 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-FB-M

[CO-070-7122-09-7410-10; COC-50893]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado

June 25, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Transportation, Federal Aviation Administration, proposes to withdraw 2,163.46 acres of public lands for 20 years. This withdrawal would protect this land which is adjacent to Walker Field Airport in Grand Junction, Colorado, in the interest of future aiport development. This notice closes these lands to location and entry under the mining laws for up to two years. The lands remain open to mineral leasing and to management by the Bureau of Land Management.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before October 3, 1991.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303-239-3706.

SUPPLEMENTARY INFORMATION: On June 11, 1991, the Department of Transportation, Federal Aviation Administration, filed an application to withdraw the following described public lands from location and entry under the United States mining laws (30 U.S.C. Ch. 2):

Ute Principal Meridian

T. 1 N., R. 1 E.
- Sec. 19, lots 1 thru 4, E½W½, and SE¼;
- Sec. 20, S½SW¼;
- Sec. 29, N½, N½SE¼, and SE¼SE¼;
- Sec. 30, lot 1, NE¼, and NE¼NW¼;
- Sec. 32, NE¼NE¼;

T. 1 N., R 1 W.
- Sec. 13, N½SW¼, SW¼SW¼, and S½SE¼;
- Sec. 14, SE¼;
- Sec. 23, NE¼, and N½NW¼;
- Sec. 24, NE¼, N½SE¼, and SE¼SE¼.

The areas described aggregate approximately 2,163.46 acres in Mesa County. The purpose of this withdrawal is to reserve public land for potential airport development at Walker Field Airport in Grand Junction, Colorado. The land will continue to be managed by the Bureau of Land Management. For a period of 90 days from the date of suggestions, or objections in connection with this proposal, or to request a public meeting, may present their views in writing to the Colorado State Director. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with the Bureau of Land Management Manual, section 2351.16B.

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period two years from the date of publication of this notice in the **Federal Register**, the land will be segregated from the mining laws as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period the Bureau of Land Management will continue to manage these lands.

Doris E. Chelius,

Acting Chief, Branch of Realty Programs.

[FR Doc. 91-15885 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

Availability of Draft Recovery Plan for Chasmistes Cujus (Cui-ui) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the cui-ui (*Chasmistes cujus*). This species occurs in Pyramid Lake and the lower Truckee River, Nevada.

DATES: Comments on the draft recovery plan must be received on or before September 3, 1991 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Reno Field Office, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C, room 125, Reno, Nevada 89502, or the Assistant Regional Director, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 911 NE., 11th Avenue, Portland, Oregon 97232. Written comments and materials regarding the plan should be addressed to the Reno Field Office Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above Reno, Nevada address.

FOR FURTHER INFORMATION CONTACT: Mr. Chester C. Buchanan at the above Reno, Nevada address (telephone 702-784-5227 or FTS 470-5227).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The first Cui-ui Recovery Plan was written by the recovery team in 1978. That plan was updated in 1980 and revised in 1983 with the team's concurrence; the team disbanded in 1984. The current recovery team was established in March 1989 with representatives from Federal, State, and Tribal agencies and academic institutions. The team has revised the recovery plan extensively. The current plan offers a quantifiable recovery objective with site-specific tasks which, if implemented, are expected to achieve delisting of cui-ui.

The only cui-ui population exists in Pyramid Lake, western Nevada. Adult cui-ui enter the lower Truckee river, the lake's major tributary, to spawn in spring. Access to spawning habitat is restricted by attraction flows, a delta at the river mouth, and Marble Bluff Dam. Spawning and rearing are functions of lower Truckee River runoff which is controlled by upstream diversion and consumption, and by point and nonpoint source discharges. Stampede Reservoir is the only facility in the Truckee basin dedicated to store water for cui-ui.

Recovery efforts for cui-ui will focus on securing spawning and rearing habitat by increasing inflow to Pyramid Lake, rehabilitating the lower Truckee River floodplain, achieving water quality standards in the lower basin, and improving upstream passage of spawners. Research and monitoring tasks will be implemented concurrent

with conservation measures to evaluate the effectiveness of those measures, increase knowledge of population dynamics, genetics and the relation between river discharge and recruitment, and refine hydrologic and biological models. Other recovery tasks deal with protection and management of the population and public education programs. An interim goal of downlisting may be achieved as the recovery objective is pursued.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 24, 1991.

Marvin L. Plenert,

Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 91-15972 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-55-M

Availability of a Draft Environmental Assessment and Amended Conservation Plan for an Incidental Take Permit for Development in Los Vegas Valley, Clark County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: On January 25, 1991, the U.S. Fish and Wildlife Service (Service) published notification of receipt of an application, PRT-754469, by the city of Boulder City, Clark County, Nevada, for an incidental take permit pursuant to section 10 (a)(1)(B) of the Endangered Species Act (Act). The proposed permit would authorize, for a period of 3 years or until a countywide incidental take permit is granted for Clark County, Nevada, the incidental take of a threatened species, the Mojave desert tortoise (*Gopherus agassizii*), in Boulder City, Nevada. This notice advises the public that the draft Environmental Assessment (EA) and an amended conservation plan for the incidental take permit application are available for public review. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments should be received on or before August 5, 1991.

ADDRESSES: Persons wishing to review the draft EA or amended conservation plan may obtain a copy by writing the Office of Management Authority or the Reno Field Station. The documents will be available by written request for public inspection, by appointment, during normal business hours. The documents will also be available for review at the reference desk of the public library in Boulder City. Written data or comments should be submitted to the Office of Management Authority. Please reference permit number PRT-754469 in your comments.

Office of Management Authority, U.S. Fish and Wildlife Service, room 430, 4401 N. Fairfax Dr., Arlington, Virginia 22033 (703/358-2104 or FTS 921-2104).

Reno Field Station, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C-125, Reno, NV 89502-5093 (702/784-5227 or FTS 470-5227).

FOR FURTHER INFORMATION CONTACT: Ms. Sheryl L. Barrett at the above Reno Field Station.

SUPPLEMENTARY INFORMATION: Boulder City proposes to develop up to 165 acres of land within the city limits located within Clark County, Nevada, over a 3-year period. To minimize and mitigate the impacts of this development, Boulder City proposes to conserve and manage 640 acres of desert tortoise habitat not included in any other conservation plan. A mitigation fee of $300 per acre would be imposed to support this conservation plan.

The implementing agreement contains specific and enforceable provisions regarding: (1) Habitat reserve site location, designation, and protection; (2) protocols for survey and removal of tortoises; and (3) plans for a tortoise holding facility and schedule for maintenance and monitoring. The draft EA examines the environmental consequences of three alternatives: (1) Proposed action; (2) alternative habitat sites; and (3) no action alternative.

Dated: June 28, 1991.

Maggie Tieger,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 91-15936 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On April 15, 1991, a notice was published in the Federal Register, Vol. 56, No 72, Pages 15093 & 15094, that an application had been filed with the Fish and Wildlife Service by the Fish and Wildlife Service, Alaska Fish & Wildlife Research Center, (PRT 740507) for amendment to their current permit to extend the capture area, authorize the collection of urine samples, and biopsy oral and vaginal lesions on Alaska sea otters (*Enhydra lutris*).

Notice is hereby given that on May 15, 1991, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361, *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit documents themselves are available for public inspection by appointment during normal business hours (7:45-4:15) at the Fish and Wildlife Service's Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 (703/358-2104).

Other information in this permit file is available under the Freedom of Information Act to any person who submits a written request to the Service's Office of Management Authority at the above address, in accordance with procedures set forth in Department of the Interior regulations, 43 CFR 2.

Dated: June 28, 1991.

Maggie Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 91-15937 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Assessments for Late Reports

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of assessment rates.

SUMMARY: The Minerals Management Service (MMS) has existing regulations at 30 CFR 216.40 and 218.40 which provide for assessments in the nature of liquidated damages for incorrect or late reports and failure to report production and royalty information by payors, operators, or lessees on Federal and Indian leases. The regulations require that the assessment amount (rate) for each violation will be established periodically based on MMS's experience with costs and improper reporting and that a Notice of the established assessment rate will be published in the **Federal Register.** This Notice establishes new assessment rates for late reporting in accordance with the regulations.

EFFECTIVE DATE: The assessment rates established in this Notice will apply to reports received late after August 1, 1991. These rates will remain in effect until a subsequent Notice is published in the **Federal Register** which changes the assessment rates.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, MS 3910, Minerals Management Service, P.O. Box 25165, Denver, Colorado 80225-0165, at (303) 231-3432 or (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public of a change in assessment rates for late reporting of production and royalty information to the MMS automated Production Accounting and Auditing System (PAAS) and the Auditing and Financial System (AFS) on Federal and Indian leases pursuant to established regulations.

Paragraph (a) at 30 CFR 216.40 and 218.40 provides that an assessment of an amount not to exceed $10 per day may be charged for each royalty or production report not received by MMS by the designated due date. This includes both late reports and failure to report which are classified by MMS as "nonrespondent exceptions." A report is defined at 30 CFR 216.40(c), 216.40(d), and 218.40(c) as each line of required production or royalty information.

Except for reports submitted via magnetic media, the new rates established for "nonrespondent exceptions" are $10 per month under AFS and $3 per month under PAAS based on actual costs incurred. These rates will be assessed for each line of royalty or production information that is due and received late or not reported, after the effective date of this Notice.

Under AFS and PAAS, magnetic media reporters will be assessed for late reporting whenever the first processable submission is received after the due date. The rate is $500 per media submission received on the first working day after the due date with an additional $100 for each of the next four working days until an acceptable submission is received. If an acceptable submission is not received by the close of the fifth working day after the due date, the assessment rate for late magnetic media reports will revert to the rates established in 30 CFR 216.40 and 218.40 (i.e., $10 per line under AFS and $3 per line under PAAS). Total nonrespondent assessments shall not exceed $10,000 per operator or payor code per report month.

Dated: June 27, 1991.

Lucy R. Querques,

Acting Associate Director for Royalty Management.

[FR Doc. 91-15979 Filed 7-3-91; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-524 (Preliminary)]

Steel Wire Rope From Canada; Institution and Scheduling of a Preliminary Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-524 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of steel wire rope, provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States,[1] that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 12, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and B (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

EFFECTIVE DATE: June 28, 1991.

FOR FURTHER INFORMATION CONTACT: Jeff Doidge (202-252-1183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of th Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background—This investigation is being instituted in response to a petition filed on June 28, 1991, by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register.**

The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on July 18, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jeff Doidge (202-252-1183) not later than July 16, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 201.15 of the Commission's rules, any person may submit to the Commission on or before July 23, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must

[1] The imported steel wire rope covered by this investigation consists of ropes, cables, and cordage, of iron or steel, excluding stainless steel, other than stranded wire, not fitted with fittings or made into articles, and not of brass plated wire. Such steel wire rope was previously provided for in item 642.16 of the former Tariff Schedules of the United States (TSUS).

conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: July 1, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-16071 Filed 7-3-91; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31869 (Sub-No. 4)]

ATW RY, L.P.—Acquisition and Operation Exemption—Atlantic & Western Railway Company; Exemption

ATW Ry, L.P. (ATWLP), a non-carrier, has filed a notice of exemption to acquire and operate approximately 3.38 miles of rail line in Sanford, NC, owned by Atlantic & Western Railway Company (ATWC), a class III carrier.

K. Earl Durden, a non-carrier individual, and Green Bay Packaging, Inc. (GB), a non-carrier, own 40 and 50 percent, respectively of ATWC. This transaction is part of a consolidation and restructuring of the railroad holdings of Mr. Durden and GB which are the subject of four related transactions filed concurrently with this notice. Finance Docket No. 31869, Green Bay Packaging, Inc.; K. Earl Durden; Galveston Railway, Inc.; Rail Management and Consulting Corporation; and Rail Partners, L.P.—Continuance in Control Exemption—Galveston Railroad, L.P.; LRW Ry, L.P.; ET Ry L.P.; ATW Ry L.P.; KWT Railway, Inc.; Copper Basin Railway, Inc.; and Wilmington Terminal Railroad, Inc., and Finance Docket No. 31869 (Sub-Nos. 1, 2, and 3). As part of the restructuring, Mr. Durden will acquire and donate the remaining 10 percent of ATWC's stock from an unrelated third party individual. ATWLP expects to consummate this transaction after the effective date of this notice.

Any comments must be filed with the Commission and served on: Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. 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 automatically stay the transaction.

Decided: June 28, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-15901 Filed 7-3-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31869 (Sub-No. 3)]

ET RY, L.P.—Acquisition and Operation Exemption—East Tennessee Railway Corporation; Exemption

ET Ry, L.P. (ETLP), a non-carrier, has filed a notice of exemption to acquire and operate approximately 11.2 miles of rail line in Carter and Washington Counties, TN, owned by the East Tennessee Railway Corporation (ETRC), a class III carrier.

K. Earl Durden, a non-carrier individual, and Green Bay Packaging, Inc. (GB), a non-carrier, own 21 and 79 percent, respectively, of ETRC. This transaction is part of a consolidation and restructuring of the railroad holdings of Mr. Durden and GB which are the subject of four related transactions filed concurrently with this notice. Finance Docket No. 31869, Green Bay Packaging, Inc.; K. Earl Durden; Galveston Railway, Inc.; Rail Management and Consulting Corporation; and Rail Partners, L.P.—Continuance in Control Exemption—Galveston Railroad, L.P.; LRW Ry, L.P.; ET Ry L.P.; ATW Ry L.P.; KWT Railway, Inc.; Copper Basin Railway, Inc.; and Wilmington Terminal Railroad, Inc., and Finance Docket No. 31869 (Sub-Nos. 1, 2, and 4). ETLP expects to consummate this transaction after the effective date of this notice.

Any comments must be filed with the Commission and served on: Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

ETLP shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. 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 automatically stay the transaction.

Decided: June 28, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-15902 Filed 7-3-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31869 (Sub-No. 1)]

Galveston Railroad, L.P.—Acquisition and Operation Exemption—Galveston Railway, Inc., Notice of Exemption

The Galveston Railroad, L.P. (GRLP), a non-carrier limited partnership, has filed a notice of exemption to acquire and operate an approximately 38-mile line of railroad in Galveston County, TX, owned by Galveston Railway, Inc. (GRI), a class III carrier.

This transaction is part of a consolidation and restructuring of the railroad holdings of K. Earl Durden, a non-carrier individual, and Green Bay Packaging, Inc. (GB), a non-carrier, which are the subject of four related transactions filed concurrently with this notice. Finance Docket No. 31869, Green Bay Packaging, Inc.; K. Earl Durden; Galveston Railway, Inc.; Rail Management and Consulting Corporation; and Rail Partners, L.P.—Continuance in Control Exemption—Galveston Railroad, L.P.; LRW Ry, L.P.; ET Ry L.P.; ATW Ry L.P.; KWT Railway, Inc.; Copper Basin Railway, Inc.; and Wilmington Terminal Railroad, Inc., and Finance Docket No. 31869 (Sub-Nos. 2, 3, and 4). As part of the restructuring, GRLP, a Texas limited partnership, will acquire GRI's railroad assets and assume its operations. GRI, owned by Mr. Durden, will become a holding company. Consummation is expected after the effective date of this notice.

Any comments must be filed with the Commission and served on: Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

GRLP shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106

process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. 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 automatically stay the transaction.

Decided: June 28, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-15903 Filed 7-3-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31869]

Green Bay Packaging, Inc. et al.; Notice of Exemption

Green Bay Packaging, Inc. (GB), K. Earl Durden (Durden), Galveston Railway Inc. (GRI), and Rail Management and Consulting Corporation (RMCC), have filed a notice of exemption for their continuance in control, through their partnership Rail Partners, L.P. (Partners), of the following rail carriers: Galveston Railroad, L.P. (GRLP); LRW Ry, L.P. (LRWLP); ET Ry, L.P. (ETLP); ATW Ry, L.P. (ATWLP); KWT Railway, Inc. (KWT); Copper Basin Railway, Inc. (CB); and Wilmington Terminal Railroad, Inc. (WT).

GB, Durden, and GRI are limited partners in and own 49.5, 14.5, and 35 percent, respectively, of Partners. RMCC is the general partner in and owns 1 percent of Partners. In additon, Durden and GB each own 50 percent of RMCC, and Durden owns 100 percent of GRI. Partners will own 100 percent of GRLP, ETLP, ATWLP, and KWT, and 79 percent of LRWLP.[1] GRLP, ETLP, ATWLP, and LRWLP are newly created limited partnerships formed to acquire the rail assets and assume the rail operations, or, respectively, GRI, Little Rock and Western Railway Corporation (LRWC), East Tennessee Railway Corporation (ETRC), and Atlantic & Western Railway Company (ATWC), all Class III common carriers.[2]

Prior to these transactions, GB's ownership interest in rail carriers had been as follows: (1) 79 percent of LRWC; (2) 50 percent of ATWC; (3) 78 percent of KWT; (4) 79 percent of ETRC; (5) 45 percent of CB; and (6) 50 percent of WT.[3] Durden's ownership had been: (1) 40 percent of ATWC; (2) 100 percent of GRI; (3) 11 percent of KWT; 21 percent of ETRC; (4) 10 percent of CB; and (5) 50 percent of WT.[4] In forming Partners, GB and Durden are contributing their ownership interests in LRWC, ATWC, KWT, and ETRC,[5] and GRI its rail assets and operations.[6]

The purpose of the transaction is to transfer and centralize the ownership and control of the railroads in Partners and RMCC; to divide the effective ownership of the railroads equally between GB and Durden; and to provide an entity for unified financing for future expansions and acquisitions and thereby increase the financial resources available to the involved carriers. As part of this restructuring, GB and Durden will transfer their respective shares of stock in the involved railroads to the new partnership, which will then control these carriers. Consummation is expected after the effective date of this notice.

GRLP, LRWLP, ETLP, ATWLP, KWT, CB, and WT do not connect with each other. The transaction is not part of a series of anticipated transactions that would connect these railroads with each other or with any other commonly controlled railroad. Finally, the transaction does not involve a class I carrier. The continuance in control of these railroads by GB, GRI, Durden, RMCC, and Partners is exempt from prior approval under 49 CFR 1180.2(d)(2).

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under 49 U.S.C. 10505(g)(2) and 11347, the labor conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979), are imposed.

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: Donald G. Avery, Slover & Loftus, 1224 17th Street, NW., Washington, DC 20036.

Decided: June 28, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-15904 Filed 7-3-91; 8:45 am]

BILLING CODE 7035-01-M

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[1] The remaining 21 percent of LRWLP will be owned by an employee stock ownership plan.

[2] These transactions are the subject of four concurrently filed class exemption proceedings in Finance Docket No. 31869 (Sub-Nos. 1, 2, 3, and 4).

[3] GB's control of KWT and ATWC was exempted in Finance Docket No. 31734, Green Bay Packaging, Inc.—Control—KWT Railway, Inc., and Atlantic & Western Railway (not printed), served November 14, 1990; its control of ETRC was exempted in Finance Docket No. 30213, Green Bay Packaging, Inc.—Control—East Tennessee Ry. Corp.—Exemp. under 49 CFR 1180.4(g) (not printed), served July 14, 1983.

[4] Durden's control of GRI and WT was exempted in Finance Docket No. 31736, K. Earl Durden—Control Exemption—Wilmington Terminal Railroad, Inc. (not printed), served September 28, 1990.

[5] Durden is acquiring an additional 10 percent interest in ATWC to contribute to Partners and an additional 11 percent interest in KWT to be contributed to Partners through RMCC.

[6] CB and WT will not be owned by Partners. GB and Durden together will own 55 percent of CB (45 percent by GB and 10 percent by Durden). Durden and GB will continue to own 50 percent each in WT, which Durden will continue to control through voting power.

[Finance Docket No. 31869 (Sub-No. 2)]

LRW Ry, L.P.—Acquisition and Operation Exemption—Little Rock and Western Railway Corp.; Notice of Exemption

LRW Ry, L.P. (LRWLP), a non-carrier, has filed a notice of exemption to acquire and operate the railroad properties of Little Rock and Western Railway Corporation (LRWC), a class III carrier, including a 79-mile line of railroad between milepost 141, near Pulaski, AR, and milepost 219, near Danville, AR. The segment of the line between milepost 190, near Adona, AR, and milepost 219 is owned by the Continental Grain Company and operated under lease.

This transaction is part of a consolidation and restructuring of the railroad holdings of K. Earl Durden, a non-carrier individual, and Green Bay Packaging, Inc., a non-carrier, which are the subject of four related transactions filed concurrently with this notice. Finance Docket No. 31869, Green Bay Packaging, Inc.; K. Earl Durden; Galveston Railway, Inc.; Rail Management and Consulting Corporation; and Rail Partners, L.P.—Continuance in Control Exemption—Galveston Railroad, L.P.; LRW Ry, L.P.; ET Ry L.P.; ATW Ry L.P.; KWT Railway, Inc.; Copper Basin Railway, Inc.; and Wilmington Terminal Railroad, Inc., and Finance Docket No. 31869 (Sub-Nos. 1, 3, and 4). LRWLP expects to consummate this transaction after the effective date of this notice.

Any comments must be filed with the Commission and served on: Donald G. Avery, Slover & Loftus, 1224 Seventeenth Street NW., Washington, DC 20036.

LRWLP shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. 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 automatically stay the transaction.

Decided: June 28, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-15905 Filed 7-3-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Clean Air Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Champion International Corp. Dairypak Division*, Civil Action No. C84-2775, was lodged on June 21, 1991 with the United States District Court for the Northern District of Ohio. The United States' Complaint in the action alleged that the defendants violated the Clean Air Act by emitting volatile organic compounds (VOCs) substantially in excess of the limitations allowed by the Ohio State Implementation Plan (SIP).

The Consent Decree requires the defendant to take specified measures to ensure continuing compliance with the Clean Air Act. The defendant must certify that by March 31, 1991, all Dairypak facility processes will have come into full compliance with the Ohio SIP. Any violation of the SIP after that date constitutes a violation of the Decree which automatically subjects defendant to stipulated penalties. The defendant must also report directly to the United States on a quarterly basis whether it has used any ink or coating containing VOCs in excess of the limits allowed by the SIP. Finally, the defendant must pay a $50,000 civil penalty to the United States Treasury.

The Department of Justice will receive for thirty (30) days from the publication date of this notice written comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United Staes* v. *Champion International Corp., Dairypak Division*, DJ No. 90-5-2-1-685.

The proposed Consent Decree may be examined without charge at the office of the United States Attorney, 1404 East Ninth Street, suite 500, Cleveland, Ohio; at the Region V Office of the Environmental Protection Agency, Third Floor, W. Jackson, Chicago, Illinois; and at the U.S. Department of Justice, Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. Copies of the Consent Decree may be requested in person or by mail from the U.S. Department of Justice, at the above address. A copying charge of $2.25 (25 cents per page reproduction cost) must be paid, by check or money order payable to the Consent Decree Library at the time of the request.

Richard B. Stewart,

Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 91-15981 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 18, 1991, a proposed Consent Decree in *United States* v. *Chemical Leaman Tank Lines, Inc.*, No. 91-2637, was lodged with the United States District Court for the District of New Jersey. The complaint in this action was filed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, to recover costs incurred by the Environmental Protection Agency ("EPA") in taking response actions at the Chemical Leaman Tank Lines, Inc. Superfund Site ("Site") located in Logan Township, Gloucester County, New Jersey.

The proposed Consent Decree embodies an agreement by Chemical Leaman Tank Lines, Inc. to pay the United States $714,579.05 for past response costs incurred by EPA in connection with the first operable unit at the Site. It also requires the Chemical Leaman to perform the remedial work selected by EPA for Operable Unit I, i.e., treatment of the groundwater contaminant plume, and to pay for EPA's costs in overseeing this work.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Chemical Leaman Tank Line, Inc.*, DOJ NO. 90-11-2-296.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (202-347-2072).

A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Box 1097, Washington, DC 20004. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $10.75 (25 cents per page reproduction cost) for the Consent Decree.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section.

[FR Doc. 91-15982 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 25, 1991, a consent decree in *United States* v. *Hercules Incorporated, et al.*, Civil Action No. 89-562-LON, was lodged with the United States District Court for the District of Delaware. This is the third consent decree lodged in this action. *See* 55 FR 36916 (September 7, 1990) and 56 FR 19691 (April 29, 1991).

The amended complaint filed by the United States on December 28, 1990, alleges that Hercules Incorporated, Allied-Signal, Inc., American Can Company, American Cyanamid Company, Amoco Chemical Corporation, Avon Products, Inc., Champlain Cable Corporation, Chrysler Corporation, Congoleum Corporation, E.I. du Pont de Nemours & Co., Inc., General Motors Corporation, ICI Americas, Inc., Johnson Controls, Inc., Motor Wheel Corporation, Occidental Chemical Corporation, SCA Services, Inc. ("SCA"), Standard Chlorine of Delaware, Inc., Waste Management of Delaware, Inc. ("WMDI"), and Witco Corporation, are responsible to reimburse the United States costs totalling in excess of $2.1 million incurred by the Environmental Protection Agency ("EPA") between November 1, 1979 and April 22, 1988, in

responding to the release and threatened release of hazardous substances from the Delaware Sand & Gravel Landfill Superfund Site in New Castle County, Delaware (the "Site"). The amended complaint also alleges that all defendants, except SCA and WMDI, arranged for the transport to and disposal of hazardous substances at the Site; and that SCA and WMDI selected the Site and transported to and disposed of hazardous substances at the Site. The United States, on behalf of EPA, sought a judgment against the defendants jointly and severally for reimbursement of the aforementioned past response costs under section 107(a) of CERCLA, 9607(a), and a determination under Section 113(g)(2) of CERCLA, 42 U.S.C. 9613(g)(2), that any finding of liability would be binding in any subsequent action for further response costs.

In the consent decree, Hercules Incorporated, Allied-Signal, Inc., American Can Company, American Cyanamid Company, Amoco Chemical Corporation, Champlain Cable Corporation, Chrysler Corporation, Congoleum Corporation, E.I. du Pont de Nemours & Co., Inc., General Motors Corporation, ICI Americas, Inc., Johnson Controls, Inc., Motor Wheel Corporation, Occidental Chemical Corporatrion, SCA, Standard Chlorine of Delaware, Inc., WMDI, and Witco Corporation (the "Settlors") have agreed to reimburse the Hazardous Substance Response Trust Fund in the amount of $1,475,000.00. The consent decree only resolves the Settlor's liability for costs incurred by the United States between November 1, 1979 and April 22, 1988, and costs of enforcement and statutory interest specified in the consent decree. The consent decree also provides that the court will retain jurisdiction of the United States' request for declaratory relief against the Settlors under section 113(g)(2) of CERCLA, 42 U.S.C. 9613(g)(2).

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Hercules Incorporated, et al.*, DOJ Ref. No. 90-11-2-298. The proposed consent decree may be examined at the office of the United States Attorney, District of Delaware, J. Caleb Boggs Federal Building, 844 King Street, room 5110, Wilmington, Delaware. Copies of the consent decree may also be examined and obtained by mail at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20044 (202-347-7829). When requesting a copy of the consent decree by mail, please enclose a check in the amount of $8.41 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-15983 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Lewisburg, TN, et al.; Notice of Lodging of Consent Decree

In accordance with Section 122(i)(1) of CERCLA, 42 U.S.C. § 9622(i)(1) as well as Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *City of Lewisburg et al.*, Case No. 1-91-0069 was lodged with the United States District Court for the Middle District of Tennessee on June 19, 1991. This agreement resolves a judicial enforcement action brought by the United States against the Defendants pursuant to sections 106 and 107 of the Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 42 U.S.C. 9607, for the cleanup of the Lewisburg Dump Superfund Site ("Site") located in the City of Lewisburg, Marshall County, Tennessee, and for the recovery of costs expended by the United States in connection with the Site.

The Consent Decree is entered into between the United States and the City of Lewisburg, an owner and operator of a landfill in the City of Lewisburg, and the following generators of hazardous substances at the Site: Cosmolab, Inc., Domac Enterprises, Inc., Faber-Castell Corporation, Georgia Boot, Inc., Inter-City Products Corp. (USA), formerly known as Heil-Quaker Corporation, J.R. Moon Pencil Co., Inc., Marshall County Department of Highways, Marshall Farmers Cooperative, Marshall Manufacturing Corporation, Reliance Machine Works, Inc., Teledyne—Lewisburg, State of Tennessee, on behalf of Tennessee Army National Guard, Tuscarora Plastics, Inc., and Walker Die Castings, Inc. (hereinafter referred collectively as "Generator Defendants")

The Consent Decree requires the City of Lewisburg to implement the remedial action selected by the Environmental Protection Agency ("EPA") for the Site, and to reimburse the United States for a portion of its response costs at the Site. The Consent Decree requires the Generator Defendants to pay the City of Lewisburg monies in order to assist the City in meeting its obligations under the Consent Decree.

The Department of Justice will receive for a period of (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Lewisburg, et al.*, DOJ #90-11-2-606.

The Decree may be examined at the offices of the United States Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, and at the offices of the Environmental Enforcement Section, Environmental and Natural Resources Division of the Department of Justice, room 1535, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. The proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $19.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-15984 Filed 7-3-91; 8:45 am

BILLING CODE 4410-01-M

Minnesota Mining and Manufacturing Co.; Notice of Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR section 50.7, notice is hereby given that on June 21, 1991, a proposed Consent Decree and a proposed Stipulation and Order modifying the Consent Decree in *United States* v. *Minnesota Mining and Manufacturing Co.*, Civil Action No. 4-91-484, were lodged with the United States District Court for the District of Minnesota. The proposed Consent Decree and the Stipulation and Order modifying the Decree concern five asbestos abatement operations undertaken at Minnesota Mining and Manufacturing Company ("3M") facilities in Minnesota. The proposed Consent Decree, as modified by the

proposed Stipulation and Order, requires that 3M achieve and maintain compliance with the applicable regulations promulgated under the Clean Air Act concerning asbestos abatement operations. The proposed Consent Decree, as modified by the proposed Stipulation and Order, also requires that 3M pay a civil penalty of $4,920.00.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree and the proposed Stipulation and Order. Comments should be addressed to the Assistant Attorney General for the Enviroment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Minnesota Mining and Manufacturing Co.*, D.J. Ref. 90-5-1-1-3683.

The proposed Consent Decree and the proposed Stipulation and Order may be examined at the office of the United States Attorney, District of Minnesota, 234 U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55401; at the Region V Office of the United States Envionmental Protection Agency, 230 South Dearborn Street, Chicago, IL 60604; and at the Envionmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree and the proposed Stipulation and Order may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $3.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Enviornment and Natural Resources Division, Environmental Enforcement Section.

[FR Doc. 91-15985 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with section 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9622, and Department of Justice policy, 28 CFR 50.7, notice is hereby given that on June 24, 1991, a complaint was filed and a proposed consent decree was lodged with the United States District Court for the Western District of Washington at Tacoma in *United States* v. *Simpson Tacoma Kraft Co., et al.*, Civil Action No. C91-5260T. The proposed consent decree relates to settlement for releases of hazardous substances at the St. Paul Waterway Problem Area of the Commencement Bay Nearshore/Tideflats (CB/NT) Superfund Site in Tacoma, Washington. The consent decree addresses the cleanup and long-term monitoring of contaminated sediments in the St. Paul Waterway, adjacent to the Simpson Tacoma Kraft Mill, required by the U.S. Environmental Protection Agency (EPA). The consent decree also settles claims for natural resource damages by the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, the U.S. Department of the Interior, the State of Washington, the Puyallup Tribe of Indians, and the Muckeshoot Indian Tribe (the Natural Resource Trustees).

The complaint asserts claims under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. The complaint also includes claims brought under Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1321. The claims were brought in response to contamination of sediments in the St. Paul Waterway, one of eight problem areas and waterways targeted for cleanup in the Commencement Bay tideflats. The contamination was caused by releases of hazardous substances from the Tacoma Kraft paper mill ("the Mill") situated on a peninsula of filled tideflats projecting into Commencement Bay between the mouths of the Puyallup River and the St. Paul Waterway. The defendants are the Simpson Tacoma Kraft Company, the present owner and operator of the Mill; Champion International Corporation, a former owner of the Mill; and the Washington Department of Natural Resources, which leases certain state-owned aquatic lands to Simpson and leased such lands to prior owners and operators of the Mill.

Remediation of the contaminated sediments in the St. Paul Waterway Problem Area has already been accomplished by the defendants pursuant to a 1987 state court consent decree with the State of Washington. This federal settlement provides for additional activities to be undertaken by the defendants to conform the remediation to EPA's September 30, 1989 CB/NT Record of Decision ("ROD") and the provisions of CERCLA and for settlement of natural resource damage claims. The main requirement is for additional monitoring to ensure long-term protectiveness of the sediment cap which was placed over the contaminated sediments pursuant to the 1987 state court consent decree and to make EPA the lead agency for implementing contingency procedures in the event of a failure of the cap. The decree further provides that defendants will reimburse EPA for one hundred percent (100%) of its past costs allocable to the St. Paul Waterway through the date of the ROD, totalling $354,536.00. Defendants will also reimburse sixty percent (60%) of EPA oversight costs from the date of the ROD through the date of entry of the consent decree, and agreed to reimburse EPA's future oversight and response costs for the St. Paul Waterway.

Additionally, the St. Paul Waterway remedial action design is integrated with habitat restoration and the Consent Decree provides for settlement of natural resource damages at the St. Paul Waterway Problem Area. The defendants have agreed to a settlement with the Natural Resource Trustees valued at approximately one million dollars ($1,000,000.00). The settlement compensates for injuries to natural resources at the St. Paul Waterway and funds, in part, a natural resource damage assessment for the remainder of Commencement Bay.

The 1987 consent decree previously entered into by the defendants and the State of Washington will be amended in certain respects and to conform to the requirements of the federal consent decree. The amendment provides that monitoring of the sediment remedial action will be governed by the Monitoring Plan in the federal consent decree. Federal consent decree provisions for submittal of plans and reports, retention of records, property transfers, notices, and insurance shall apply in lieu of corresponding provisions in the state decree.

The U.S. Department of Justice will receive comments on the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC, 20530, with copies to U.S. EPA, Commencement Bay Remedial Project Manager, Superfund Branch, HW-113, 1200 Sixth Avenue, Seattle, Washington, 98101, and should refer to *United States* v. *Simpson Tacoma Kraft Co., et al.*, D.J. Ref. 90-11-3-363.

The proposed consent decree and attached exhibits, including the Monitoring Plan, CB/NT ROD,

Superfund Completion Report and Natural Resource Damage Settlement, as well as the Washington State Consent Decree Amendment, may be examined at the Office of the Attorney General for the Western District of Washington at Tacoma, 1145 Broadway Plaza, Tacoma, Washington, 98402, and at the Region 10 Office of EPA, Lynn M. Williams, Administrative Records Coordinator, Superfund Branch, 1200 Sixth Avenue, Seattle, Washington, 98101. The proposed consent decree and exhibits may also be examined at the Environmental Enforcement Section, Environmental and Natural Resources Division of the U.S. Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530, and at the Tacoma Public Library, Main Branch, 1102 Tacoma Avenue South, Tacoma, Washington, 98402. A copy of the consent decree and exhibits (if requested) may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, (202) 347-2072. In requesting copies, please enclose a check in the amount of $24.25 (consent decree only) or $123.50 (consent decree with exhibits) _____ (25 cents per page reproduction cost) payable to the "Consent Decree Library."

The Administrative Record for the CB/NT Record of Decision and proposed consent decree and exhibits may be examined at the Region 10 Office of the United States Environmental Protection Agency, Lynn M. Williams, Administrative Records Coordinator, Superfund Branch, 1200 Sixth Avenue, Seattle, Washington, 98101; at the Tacoma Public Library, Main Branch, 1102 Tacoma Avenue South and the Kobetich Branch, 212 Browns Point Blvd., Tacoma, Washington; at the City of Tacoma Environmental Commission, 747 Market Street, suite 345, Tacoma; at the Tacoma Pierce County Health Department, 3633 Pacific Avenue, Tacoma; at the Pacific Lutheran Library, 121st & South Park Avenue, Tacoma; at the Puyallup Tribe of Indians, 2002 East 28th Street, Tacoma; and, at the Washington Department of Ecology, 4415 Woodview Drive, SE. and 7272 Cleanwater Lane, Olympia, Washington.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-15986 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Sinclair Oil Co.*, No. 88-278-BLG-JFB (D. Mont.), was lodged with the United States District Court for the District of Montana, on July 1, 1991.

The proposed consent decree concerns violations of section 301 and 404 of the Clean Water Act, 33 U.S.C. 1311, 1344, as a result of the discharge of fill material into the Little Big Horn River. The consent decree requires Sinclair Oil Co. to pay a $15,000 civil penalty under section 309(d) of the Clean Water Act.

The Department of Justice will receive written comments until August 15, 1991, relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environmental & Natural Resources Division, United States Department of Justice, P.O. Box 23986, Washington DC 20026-3986. The comments should refer DJ No. 90-5-1-1-3008.

The consent decree may be examined at the Clerk's Office, United States District Court for the District of Montana, 5405 Federal Building, 316 N. 26th Street, Billings, Montana 59101.

Richard B. Stewart,

Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 91-15987 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Industrial Macromolecular Crystallography Assoc.; National Cooperative Research Notification

Notice is hereby given that, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Industrial Macromolecular Crystallography Association ("IMCA") on June 6, 1991, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of invoking the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following parties have been added to IMCA:

Monsanto Company, a corporation of Delaware, having a principal place of business at 700 Chesterfield Village Parkway, St. Louis, Missouri 63198;

Smithkline Beecham Corporation, operating as SmithKline Beecham Pharmaceuticals, a corporation of Pennsylvania, having a principal place of business at 1 Franklin Plaza, Philadelphia, Pennsylvania 19101.

Abbott Structural Research, Inc. is no longer a member of IMCA.

Also, the name of another member has changed. E.R. Squibb And Sons combined with Bristol-Myers Co. to form Bristol Myers-Squibb Company, a corporation of Delaware, having a principal place of business at New York, New York.

No other changes have been made in either the membership, objectives, or planned activities of IMCA.

On October 23, 1990, IMCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Acton December 3, 1990, 55 FR 49952-53.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-15988 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Michigan Materials and Processing Institute; National Cooperative Research Notification

Notice is hereby given that, on June 10, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Michigan Materials and Processing Institute ("MMPI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following company was recently accepted as a Full Member of MMPI: DSM Research B.V.

The following University was recently accepted as a University Member in MMPI: Western Michigan University.

On August 7, 1990, MMPI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 6, 1990, 55 FR 36710.

Membership in this venture remains open, and MMPI intends to file additional written notification disclosing

all changes in membership of this venture.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-15989 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

Petroleum Environmental Research Forum; Cooperative Notification

Notice is hereby given that on June 10, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 90-05 filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in the parties participating in Project No. 90-05. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the notifications stated that the following additional party has become a participant in PERF Project No. 90-05: BP Research, Warrensville Research Center, 4440 Warrensville Center Road, Cleveland, OH 44128-2837.

No other changes have been made in either the participants or the planned activities of Project No. 90-05.

On March 19, 1991, the participants in PERF Project No. 90-05 filed their original notifications pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section (b) of the Act on April 24, 1991 (56 FR 18837).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-15990 Filed 7-3-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-25,591]

Federal Mogul Corp., Blacksburg, VA; Affirmative Determination Regarding Application for Reconsideration

By a letter dated May 24, 1991, one of the petitioners requested administrative reconsideration of the Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of Federal Mugul Corporation, Blacksburg, Virginia issued on May 16, 1991 and published in the **Federal Register** on June 21, 1991 (56 FR 28577).

The petitioner claims that the Department used the wrong classification in denying the workers under the increased import criterion of the Group Eligibility Requirements of the Trade Act. The workers produce sleeve bearings not ball and roller bearings used by the Department in denying workers.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 27th day of June 1991.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 91-16007 Filed 7-3-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,627A]

Jonbil, Inc.; Distribution Center and Laundry, Industrial Avenue, Chase City, VA; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the certification on petition TA-W-25,627A which was published in the **Federal Register** on June 5, 1991 (56 FR 25699) in FR Document 91-13220. The Department incorrectly identified the Jonbil worker group as Chase City, Virginia. The worker group should be identified as Jonbil, Inc., Distribution Center and Laundry, Industrial Avenue, Chase City, Virginia.

The affirmative determination for petition TA-W-25,627A should read: "Jonbil, Inc., Distribution Center and Laundry, Industrial Avenue, Chase City, Virginia. A certification was issued covering all workers separated on or after March 20, 1990."

Signed at Washington, DC, this 27th day of June 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-16008 Filed 7-3-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,281 Caro, MI, TA-W-25,281A Cass City, MI]

Walbro Corp.; Negative Determination Regarding Application for Reconsideration

By an application dated May 15, 1991 a worker requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on April 12, 1991 and published in the **Federal Register** on April 30, 1991 (56 FR 19884).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The worker claims that the subject firm is transferring production of carburetors and fuel pumps from the two subject facilities to other facilities in Mexico and the Far East.

In order for a worker group to be certified eligible to apply for adjustment assistance, it must meet all three of the worker group's requirements for trade adjustment assistance—a significant decrease in employment, an absolute decrease in production or sales and increased imports of articles that are like or directly competitive with those produced at the firm and which "contributed importantly" to declines in sales or production and employment.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. The Department surveyed the major declining customers of Walbro regarding their purchases of electric fuel pumps and carburetors during 1989 and 1990. The survey showed that the major declining customers did not import electric fuel pumps or carburetors while decreasing their purchases from the subject firm during the relevant period.

A review of the Department's investigation shows that it was complete through 1990. The findings show that sales and production of fuel pumps and carburetors increased at the subject firms in 1990 compared to 1989. Other findings show that Walbro did not import carburetors or fuel pumps for the

domestic market in 1990. If company imports occur in 1991, the Department would entertain another petition for trade adjustment assistance.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department's decision. Accordingly, the application is denied.

Signed at Washington, DC, this 27th day of June 1991.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 91-16009 Filed 7-3-91; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Kerr-McGee Coal Corporation

[Docket No. M-91-54-C]

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.326 to its Galatia Mine (I.D. No. 11-02752) located in Saline County, Illinois. The petitioner proposes to develop two entries through a one-mile-wide rock channel. One entry would serve as the intake airway and primary escapeway, and the other as a conveyor belt/return airway and secondary escapeway.

2. AMAX Coal Company

[Docket No. M-91-55-C]

AMAX Coal Company, P.O. Box 3005, Gillette, Wyoming 82717 has filed a petition to modify the application of 30 CFR 77.309-1 to its Belle Ayr Mine (I.D. No. 48-00732) located in Campbell County, Wyoming. The petitioner proposes to establish a control center within the structure of a thermal dryer. The system components would be controlled and monitored by remote sensors and closed circuit television.

3. Master Mining, Inc.

[Docket No. M-91-56-C]

Master Mining, Inc., P.O. Box 845, Prestonburg, Kentucky 41653 has filed a petition to modify the application of 30 CFR 75.305 to its No. 1 Mine (I.D. No. 15-16844) located in Martin County, Kentucky. Due to hazardous roof conditions, the petitioner proposes to establish ventilation evaluation points in a return aircourse in lieu of traveling the aircourse in its entirety.

4. Magic Coal Company

[Docket No. M-91-58-C]

Magic Coal Company, P.O. Box 1352, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.1103-4 to its Magic Mine (I.D. No. 15-17071) located in Hopkins County, Kentucky. The petitioner proposes to install a low-level carbon monoxide detection system in the belt entries in lieu of monitoring systems which identify each belt flight.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 5, 1991. Copies of these petitions are available for inspection at that address.

Dated: June 28, 1991.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 91-16006 Filed 7-3-91; 8:45 am]

BILLING CODE 6510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-60]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee.

DATES: July 29, 1991, 8:15 a.m. to 5:30 p.m.; July 30, 1991, 8:15 a.m. to 10 p.m.; July 31, 1991, 8:15 a.m. to 5 p.m.; August 1, 1991, 8:15 a.m. to 5:30 p.m.; and August 2, 1991, 8:15 a.m. to 12:30 p.m.

ADDRESSES: National Academy of Sciences, Woods Hole Study Center, 314 Quissett Avenue, Woods Hole, Massachusetts 02543-0086.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph K. Alexander, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Committee will meet to review long-range plans for space science missions and to recommend potential revisions to the OSSA strategic plan. The Committee is chaired by Dr. Berrien Moore and is composed of 26 members. The meeting will be open to the public up to the capacity of the room (approximately 60 persons including Committee members). It is imperative that the meeting be held on these dates to accomodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Monday, July 29
- 8:15 a.m.—Workshop Introduction and Organizational Issues.
- 9 a.m.—OSSA 1991 Division Program Updates.
- 5:30 p.m.—Adjourn.

Tuesday, July 30
- 8:15 a.m.—Committee Business.
- 8:30 a.m.—OSSA Reference Plans.
- 5 p.m.—Writing Group Formation.
- 8 p.m.—Informal Round Table Discussion.
- 10 p.m.—Adjourn.

Wednesday, July 31
- 8:15 a.m.—Committee Business.
- 8:30 a.m.—Writing Groups.
- 1:30 p.m.—Writing Group Reports.
- 5 p.m.—Adjourn.

Thursday, August 1
- 8:15 a.m.—Committee Business.
- 8:30 a.m.—Writing Group Reports.
- 5:30 p.m.—Adjourn.

Friday, August 2
- 8:15 a.m.—Committee Business.
- 8:30 a.m.—Writing Group Reports.
- 9:30 a.m.—Final Committee Discussion.
- 12:30 p.m.—Adjourn.

Dated: June 27, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-15938 Filed 7-3-91; 8:45 am]

BILLING CODE 7510-01-M

[Notice 91-61]

NASA Advisory Council, Space Science and Applications Advisory Committee, Exploration Science Working Group; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Exploration Science Working Group.

DATES: July 22, 1991, 8:30 a.m. to 5 p.m.

ADDRESSES: The Lunar and Planetary Institute, Berkner Room, 3303 NASA Road 1, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. Carl B. Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1422).

SUPPLEMENTARY INFORMATION: The Exploration Science Working Group (EXSWG) reports to the Space Science and Applications Advisory Committee (SSAAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on identifying and addressing science issues associated with human exploration missions to the Moon and Mars. The EXSWG will meet to review the development of NASA procedures regarding robotic missions to the Moon and Mars, and to review the report of the Exploration Outreach Synthesis Group and formulate conclusions. The EXSWG is chaired by Dr. David C. Black and is composed of 18 members. The meeting will be open to the public up to the seating capacity of the room (approximately 55 people including members of the EXSWG). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Monday, July 22, 1991

8:30 a.m.—Opening Remarks.

8:45 a.m.—Robotic Missions Process.

9:45 a.m.—Presentation of Exploration Outreach Synthesis Group Report.

11 a.m.—Discussion of Exploration Outreach Synthesis Group Report.

3 p.m.—Writing and Review of EXSWG Conclusions on Exploration Outreach Synthesis Group Report.

5 p.m.—Adjourn.

Dated: June 27, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-15939 Filed 7-3-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional files from the Nixon Presidential materials. Notice is hereby given that, in accordance with section 104 of title I of the Presidential Recordings and Materials Preservation Act (88 Stat. 1695; 44 U.S.C. 2111 note) and section 1275.42(b) of the Public Access Regulations implementing the Act (36 CFR part 1275), the agency has identified, inventoried, and prepared for public access integral file segments of materials among the Nixon Presidential materials.

DATES: The National Archives intends to make the integral file segments described in this notice available to the public beginning August 22, 1991. Any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before August 12, 1991.

ADDRESSES: The materials will be made available to the public at the National Archives' facility located at 845 South Pickett Street, Alexandria, Virginia.

Petitions concerning access must be sent to the Archivist of the United States, National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Clarence F. Lyons, Jr., Acting Director, Nixon Presidential Materials Staff, 703-756-6498.

SUPPLEMENTARY INFORMATION: The integral file segments of textual materials to be opened consist of 134.7 cubic feet.

The White House Central Files Unit is a permanent organization within the White House complex that maintains a central filing and retrieval system for the records of the President and his staff. This is the sixth of a series of openings of Central Files; the previous openings were on December 1, 1986; March 22, 1988; December 9, 1988; July 17, 1989; and December 15, 1989.

Some of the materials designated for opening on August 22, 1991, were selected from the Subject Files of the Central Files. The Subject Files are based on an alphanumeric file scheme of 61 primary subject categories. Listed below are the primary subject categories of the Subject Files that will be made available to the public on August 22, 1991.

Subject category	Volume (cubic feet)
Federal Government (FG):	
U.S. District Courts (FG53)	2.0
Medals and Awards (MA)	8.7
Reports and Statistics (RS)	5.7
Veterans Affairs (VA)	5.0
Welfare (WE)	21.3
	42.7

Seven file groups from the Staff Member and Office Files will also be made available to the public. These consist of materials that were transferred to Central Files but were not incorporated into the Subject Files. Listed below are the Staff Member and Office Files that will be made available to the public on August 22, 1991.

File group	Volume (cubic feet)
Arthur Burns	1.0
Alexander P. Butterfield	1.0
Earl Butz	1.2
Jean Eisenger	3.3
S. Bruce Herschensohn	4.7
Vicki Keller	10.3
Herbert Stein	70.3
	91.8

The National Security Files, which comprise the materials of the Assistant to the President for National Security Affairs and his staff, include one file segment to be made available to the public on August 22, 1991:

	Volume (cubic feet)
Country File: Sudan	.1

A number of documents which were previously withheld from public access have been reviewed and declassified under the Manadatory Review provisions of Executive Order 12356 and will be made available to the public on August 22, 1991:

	Volume (cubic feet)
Previously restricted material	less than .1

Public access to some of the items in the file segments will be restricted as outlined in 36 CFR 1275.50 or 1275.52 (Public Access Regulations).

Dated: June 27, 1991.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 91-15922 Filed 7-3-91; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance Company Grants "B" Section) to the National Council on the Arts will be held on July 26, 1991 from 2 p.m.-7 p.m. in room M-07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of June 5, 1991, this session will be closed to the public pursuant to subsections (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: June 25, 1991.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-15991 Filed 7-3-91; 8:45 am]

BILLING CODE 7537-01-M

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance Company Grants "A" Section) to the National Council on the Arts will be held on July 22-25, 1991 from 9 a.m.-8 p.m. and July 26 from 10 a.m.-1p.m. in room M-07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on July 26 from 10 a.m.-1 p.m. The topic will be policy discussion.

The remaining portions of this meeting on July 22-25 from 9 a.m.-8 p.m. are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 5, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: June 25, 1991.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-15992 Filed 7-3-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-312]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Amendment to Facility Operating License No. DPR-54, Sacramento Municipal Utility District, Rancho Seco Nuclear Generating Station

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-54 for the Rancho Seco Nuclear Generating Station. Rancho Seco is licensed by the Sacramento Municipal Utility District (SMUD). The amendment would revise the license to delete certain security requirements that are no longer necessary for a nuclear facility that is in a shutdown and permanently defueled condition such as Rancho Seco.

Environmental Assessment

Identification of Proposed Action

The amendment will modify security requirements to eliminate certain vital areas and equipment, systems and procedures, and reduce the number of required armed responders, which are unnecessary for a nuclear facility that is in a shutdown and permanently defueled condition such as Rancho Seco.

Rancho Seco is a 2772 megawatt (thermal) pressurized water reactor that operated commercially from April 17, 1975 to its final shutdown on June 7, 1989. Rancho Seco is located near Sacramento in Sacramento County, California. As a separate action (not addressed herein), the license (SMUD) has proposed to amend Facility Operating License No. DPR-54 to delete authority to operate the Rancho Seco reactor. A confirmatory order dated May 2, 1990, was issued to Rancho Seco that prohibits fuel from being moved into the reactor building without prior Commission approval.

Need for Proposed Action

The amendment is needed to change the Physical Security Plan that was appropriate for an operating plant but not for a facility in a shutdown and permanently defueled condition such as Rancho Seco.

Environmental Impact of the Proposed Action

The proposed action will have no environmental impact because Rancho Seco is shutdown and premanently defueled, SMUD is not allowed to put

fuel back into the reactor building without prior Commission approval, and potential offsite exposures from accidents are reduced to less than Environmental Protection Agency (EPA) protective action guidelines (PAG).

The licensee's analysis demonstrated that the potential risk to the public is significantly reduced and the range of credible accidents and accident consequences are limited after the shutdown and defueling of Rancho Seco. The worst case accident for this facility is a fuel handling accident. Both the licensee's and the staff's independent calculations show that the offsite doses resulting from a fuel handling accident would not exceed the EPA PAGs offsite. For example, the lower level EPA PAG for protective action is 1 Rem whole-body dose. The staff's calculations show that the accumulated whole-body dose at the site boundary for the 30 days following a fuel handling accident would be approximately 0.14 Rem.

The staff has also determined that the proposed action involves no increase in the amounts, and no significant change in the types of radiological effluents that may be released offsite and that there would be no increase in individual or cumulative occupational radiation exposures.

With regard to nonradiological impacts, the proposed action does not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested action. This would not reduce environmental impacts associated with present level of plant activities.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to the operation of the Rancho Seco Nuclear Generating Station, dated March 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request that supports the proposed action, and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action.

We conclude that the proposed action will not have a significant effect on the quality of the human environment, based upon the foregoing environmental assessment.

For further details with respect to this action, see the licensee's application of August 20, 1990, October 22, 1990, as supplemented on March 27, 1991, and April 24, 1991, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Dated at Rockville, Maryland, this 28th day of June 1991.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors, and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-16013 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits sand licenses.

Regulatory Guide 5.66, "Access Authorization Program for Nuclear Power Plants," provides guidance acceptable to the NRC staff for an access authorization program. This guide endorses with certain exceptions NUMARC 89-01, "Industry Guidelines for Nuclear Power Plant Access Authorization Programs," which was prepared by the Nuclear Management Resources Council.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202)275-2060 or (202)275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, Maryland this 17th day of June 1991.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 91-16016 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guides; Issuance, Availability

The Nuclear Regulatory Commission has issued two new guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits sand licenses.

The new guides are Regulatory Guide 7.11, "Fracture Toughness Criteria of Base Material for Ferritic Steel Shipping Cask Containment Vessels with a Maximum Wall Thickness of 4 Inches (0.1 m)," and Regulatory Guide 7.12, "Fracture Toughness Criteria of Base Material for Ferritic Steel Shipping Cask Containment Vessels with a Wall Thickness Greater than 4 Inches (0.1 m) But Not Exceeding 12 Inches (0.3 m)." These guides describe fracture toughness criteria for casks for shipping radioactive materials.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch,

Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone (202) 275-2060 or (202) 275-2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, Maryland this 17th day of June 1991.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 91-16015 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Withdrawal

The Nuclear Regulatory Commission staff is withdrawing Regulatory Guide 1.17, "Protection of Nuclear Power Plants Against Industrial Sabotage," which was issued in June 1973. This guide has become obsolete with the promulgation of § 73.56, "Personnel Access Authorization Requirements for Nuclear Power Plants," which is a recent amendment to 10 CFR part 73, "Physical Protection of Plants and Materials."

The withdrawal of Regulatory Guide 1.17 does not alter any prior or existing licensing commitments based on its use. Copies of this guide will continue to be available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Regulatory guides may be withdrawn when they are superseded by the Commission's regulations, when equivalent recommendations have been incorporated in applicable approved codes and standards, or when changes in methods and techniques or in the need for specific guidance have made them obsolete.

Dated at Rockville, Maryland this 17th day of June 1991.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 91-16017 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-325 and 50-324]

Carolina Power & Light Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Carolina Power & Light Company (the licensee) to withdraw its February 19, 1991, application for proposed amendment to Facility Operating License Nos. DPR-71 and DPR-62 for the Brunswick Steam Electric Plant, Units 1 and 2, located in Brunswick County, North Carolina.

The proposed change would have revised the facility Technical Specifications (TS) to change the surveillance interval from 18 to 24 months for TS 4.8.1.1.2.d.

For further details with respect to this action, see the application for amendment dated February 19, 1991, the licensee's letter dated June 25, 1991, which withdrew the application for license amendment, and the resubmittal for Unit 2 only dated March 18, 1991. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Dated at Rockville, Maryland this 27th day of June, 1991.

For the Nuclear Regulatory Commission.

Ngoc B. Le,

Project Manager, Project Directorate II-1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-16018 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424-OLA-2 and 50-425-OLA-2; ASLBP No. 91-647-12-OLA-2]

Establishment of Atomic Safety and Licensing Board; Georgia Power Co., Et Al.

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Georgia Power Company, Et Al.

Vogtle Electric Generating Plant, Units 1 and 2

Facility Operating License Nos. NPF-68 and NPF-81

(D.G. Test Schedule)

This Board is being established pursuant to a notice published by the Commission on May 15, 1991, in the **Federal Register** (56 FR 22460, 2248) entitled, "Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed amendments would change Technical Specification (TS) Table 4.8-1, "Diesel Generator Test Schedule," by deleting criteria for changing frequency of diesel generator (DG) tests based upon the number of failures in the last 100 valid tests. The amendments would not change corresponding criteria based upon the number of failures in the last 20 valid tests.

The Board is comprised of the following administrative judges:

Sheldon J. Wolfe, Chairman, 1110 Wimbledon Drive, McLean, Virginia 22101.

James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Thomas E. Elleman, Professor, Department of Nuclear Engineering, North Carolina State University, Hillsborough Street, Raleigh, North Carolina 27695.

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

(Issued at Bethesda, Maryland, this 27th day of June 1991.)

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 91-15871 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL and 50-444-OL]

Public Service Company of New Hampshire Facility Operating License No. NPE-86; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition of April 12, 1991, Mr. Michael Sinclair

requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the emergency planning established for the Public Service of New Hampshire's Seabrook Station, Units 1 and 2. Mr. Sinclair requests that the NRC withhold a determination on whether the directive in ALAB-941 concerning the scope of a full participation emergency response exercise in June 1988 at Seabrook was satisfied in the December 1990 emergency response exercise until there is documented evidence that the vast majority of the participating special facilities have adequately demonstrated the ability to effect their implementing procedures for the New Hampshire emergency plan. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by § 2.206, appropriate action will be taken on this request within a reasonable time.

Mr. Sinclair asserts as the basis for his request that the Federal Emergency Management Agency's (FEMA's) conclusions regarding the 1990 Seabrook exercise, which were summarized in a March 1, 1991, letter from a FEMA official to the NRC staff, did not adequately address the Appeal Board's directive. Specifically, he believes that the FEMA conclusions should not be interpreted as fully addressing the intent of either the Appeal Board's directive to correct the failure to elicit sufficient school participation in the June 1988 exercise or FEMA's own Exercise Evaluation Methodology. In Mr. Sinclair's opinion, the issue to be decided is not whether more special facilities participated in 1990, as FEMA concluded, but rather whether the participating facilities understood their role and responsibilities and fully implemented the procedures written for them as part of the emergency plan. According to Mr. Sinclair, the answer to this question is not evident from the FEMA letter of March 1, 1991.

A copy of the Petition is available for inspection in the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 27th day of June 1991.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 91-16014 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-390, 50-391]

Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2)

Order

Tennessee Valley Authority is the current holder of Construction Permit Nos. CPPR-91 and CPPR-92, issued by the Atomic Energy Commission on January 23, 1973, for construction of the Watts Bar Nuclear Plant, Units 1 and 2. these facilities are currently under construction at the permittee's site on the west branch of the Tennessee River approximately 50 miles northeast of Chattanooga, Tennessee.

On May 16, 1991 the Tennessee Valley Authority (the permittee) filed a request pursuant to 10 CFR 50.55(b) for an extension of the completion dates. The extension has been requested because construction has been delayed by the following events:

1. Delays resulting from the implementation of a comprehensive plan consisting of corrective action programs (CAPs), special programs, inspections, audits, and walkdowns to provide assurance that Unit 1 is designed and constructed in accordance with regulatory requirements and TVA commitments.

2. Delay resulting from the current stop-work order imposed by TVA to improve work control practices at the site.

The NRC staff has concluded that good cause has been shown for the delays, the extension is for a reasonable period, and that this action involves no significant hazards consideration, the basis for which are set forth in the staff's evaluation of the request for extension dated June 27, 1991.

The NRC staff has prepared an environmental assessment and finding of no significant impact which was published in the **Federal Register** on June 25, 1991 (56 FR 28933).

Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion dates will have no significant impact on the environment.

The applicant's letter dated May 16, 1991, and the NRC staff's letter and Safety Evaluation of the request for extension of the construction permits, dated June 27, 1991, are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555 and the Chattanooga-County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

It is hereby ordered that the latest completion date for Construction Permit No. CPPR-91, is extended from July 1, 1991 to December 31, 1993 and the latest completion date for Construction Permit No. CPPR-92, is extended from December 31, 1992 to June 30, 1997.

Dated at Rockville, Maryland, this 27th day of June 1991.

For the Nuclear Regulatory Commission.

Steven A Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-16019 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-32 and DPR-37, issued to Virginia Electric and Power Company (the licensee) for operation of the Surry Power Station, Units 1 and 2 located in Surry County, Virginia.

The amendments would add a license condition to the Surry Units 1 and 2 licenses regarding the analysis for the rupture of a main steam pipe inside containment, where it is assumed that environmental conditions would cause failure of a pressurizer pressure transmitter used to mitigate the consequences of a main steam line break.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By August 5, 1991, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Swem Library, College of William and

Mary, Williamsburg, Virginia 23185. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments dated March 6, 1990, as superseded May 16, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 25th day of June, 1991.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-16020 Filed 7-3-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Clearance of Form RI 20-80

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection. Form RI 20-80, Alternative Annuity Election, is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Approximately 9,600 RI 20-80 forms will be completed per year. The form requires 20 minutes to complete. The annual burden is 3,200 hours.

For copies of this proposal, contact C. Ronald Trueworthy, on (703) 908-8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESS: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW, CHP 500, Washington, DC 20415,

and;

Joseph Lackey, OMB Desk Officer, Human Resources and Housing Branch, New Executive Office Building, NW, room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-15999 Filed 7-3-91; 8:45 am]

BILLING CODE 6325-01-M

Request for Clearance of Form RI 30-10

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection. Form RI 30-10, Disabled Dependent Questionnaire, is designed to collect sufficient information about the medical condition and earning capacity for the Retirement and Insurance Group to be able to determine whether a disabled adult child is eligible for health benefits coverage and/or survivor annuity payments under the Civil Service Retirement System (CSR) or the Federal Employees Retirement System (FERS).

Approximately 2,500 Disabled Dependent Questionnaires will be processed each year. RI 30-10 requires approximately 30 minutes to complete. A burden of 1250 hours is estimated and is not expected to vary substantially.

For copies of this proposal, contact C. Ronald Trueworthy, on (703) 908-8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESS: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E. Street, NW, CHP 500, Washington, DC 20415,

and;

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Tomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-16000 Filed 7-3-91; 8:45 am]

BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval Under the Paperwork Reduction Act; Collection of Information Under 29 CFR Part 2674, Insolvency

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: This notice advises the public that the Pension Benefit Guaranty Corporation has requested extension of approval by the Office of Management and Budget for a currently approved collection of information (1212-0033) contained in its regulation on Notice of Insolvency (29 CFR part 2674). The collection of information involves that must be given by the plan sponsor of a multiemployer pension plan under certain adverse financial circumstances described in the regulation. Current approval of the collection of information expires on September 30, 1991.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Management and Budget, Paperwork Reduction Project (1212-0031), Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This collection of information is contained in the Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Notice of Insolvency (29 CFR part 2674).

Section 4245(e) of the Employee Retirement Income Security Act of 1974 ("ERISA") requires that the sponsor of a multiemployer pension plan is in reorganization notify the Secretary of the Treasury, the PBGC, contributing employers, employee organizations representing participants, and plan participants and beneficiaries whenever the plan is or may become "insolvent" for a plan year (that is, unable to pay full benefits when due during that plan year). The plan sponsor must also notify the same parties of the level of benefits that will be paid during each insolvency year. Section 4245(e)(4) provides that these notices (except for the notices to the Secretary of the Treasury) are to be given in accordance with rules promulgated by the PBGC.

Section 4245(e) requires two types of notice: A "notice of insolvency," stating the plan sponsor's determination that the plan is or may become insolvent, and a "notice of insolvency benefit level," stating the level of benefits that will be paid during an insolvency year. The Notice of Insolvency regulation prescribes the contents of these notices, the manner in which they must be given, and the time limits for their issuance.

The PBGC uses the information it receives to estimate cash needs for financial assistance to troubled plans. Collective bargaining parties use the information to decide whether additional contributions will be made to the plan to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information to make personal financial decisions. Without this regulation, the notices required by ERISA section 4245 would be inconsistently given and of varying quality, as plan sponsors applied their individual interpretations to the law. Further, PBGC financial assistance to troubled plans would likely be delayed by delays in notification.

The PBGC estimates that nine plans will be affected by this regulation each year and that two of these plans will spend 175 hours each, and the other seven plans 143 each, preparing the required notices. This amounts to an annual burden on the public of 1,351 hours.

Issued at Washington, DC, this 1st day of July 1991.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 91-16027 Filed 7-3-91; 8:45 am]

BILLING CODE 7708-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application to Act as Representative Payee.

(2) *Form(s) submitted:* AA-5, G-478.

(3) *OMB Number:* 3220-0052.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 20,300.

(9) *Total annual responses:* 20,300.

(10) *Average time per response:* .8054.

(11) *Total annual reporting hours:* 16,350.

(12 *Collection description:* Section 12 of the Railroad Retirement Act provides for the payment of benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or a minor. The collection obtains information used by the Railroad Retirement Board for selection of a representative payee and verification of an annuitant's capability to manage benefit payments.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 91-15993 Filed 7-3-91; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29381; File No. SR-DTC-91-10]

Self-Regulatory Organization; The Depository Trust Company; Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Processing of Put Option Securities

June 27, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on May 22, 1991, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change being filed by the DTC will modify Participant Terminal System ("PTS") procedures to permit DTC participants to exercise repayment, retainment, and relinquishment options on put option securities by providing instruction to DTC over their PTS terminals rather than through the delivery of hard copy instruction forms.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC has on deposit a number of issues, usually debt securities, that by their terms provide for the repurchase of the securities by the issuer or its agent within a specified time period and at a specified price ("put option securities"). Depending upon the terms of the issue, a holder may have one of the following options:

(1) Elect to have the securities repurchased at the stated put price on the put payment date;

(2) Elect to retain the securities where there is a mandatory repurchase of securities whose holders do not elect to retain; or

(3) Elect to relinquish the right to put the securities and to exchange the put option securities for securities without a put feature.

Currently, a participant who wishes to elect one of these options must submit to DTC in hard copy form a Voluntary Offering Instructions ("VOI") form. The securities that are the subject of the participant's instructions are delivered by book-entry to a special account established by DTC for the agent. Each day the VOI forms and the Agent Receipt and Confirmation from, a summary form prepared by DTC, are forwarded to the agent. The purpose of the proposed rule change is to automate the communication of the VOI instructions from participants to DTC by requiring that the VOI instructions be transmitted over participants' PTS terminals. In all other respects DTC's current procedures for the processing of elections on put option securities will remain the same.[1]

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act, in that it promotes the prompt and accurate clearance and settlement of transactions in securities by eliminating the risks of loss and delay during shipment as well as the inefficiencies associated with the transmission of instructions to DTC in hard copy form.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necesary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4 since the proposed rule change effects a change in an existing service of DTC that does not adversely affect the safeguarding of securities or funds in DTC's custody or control and does not significantly affect the rights or obligations of DTC or its participants. At any time within sixty days of the filing of such proposed rule change, the

[1] Under the proposed rule change, each VOI submitted by a participant over PTS will be printed on a computer generated form that, together with the summary form, will be forwarded to the agent. In order for the participant to confirm that any delivery of securities from its account was made in accordance with its instructions, the participant will have access to an inquiry function for the duration of the put period. In addition, the delivery will be reflected on the daily activity statement provided by DTC to the participant on the morning of the business day following the day the delivery was effected.

Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of DTC. All submissions should refer to File No. SR-DTC-91-10 and should be submitted by July 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15906 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29383; File No. SR-DTC-91-15]

Self-Regulatory Organizations; The Depository Trust Company; Filing and Immediate Effectiveness of a Proposed Rule Change Concerning Implementation of Fee for Unnecessary Inquiries

June 26, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 17, 1991, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing the proposed rule change to implement a fee of $6 per inquiry, for unnecessary inquiries by Participants of DTC, which require DTC clerical intervention and response.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Effective July 1, 1991, DTC will charge a $6 per-item cost recovery fee for the processing of certain inquires that unnecessarily require DTC clerical intervention and response. For billing purposes, an inquiry will be considered unnecessary if a Participant could have obtained the information independently from automated DTC sources readily available to the Participant, rather than have DTC staff conduct the research. An inquiry with incomplete or inaccurate data from the Participant also will be considered unnecessary.

Over the last few yeares, DTC has implemented a large number of automated inquiry functions and reports which Participants can use to answer questions about their DTC positions and activity. These capabilities enable Participants not only to get answers directly from DTC's computer data base, but also allow DTC to avoid the expense of otherwise responding to these inquiries. Nevertheless, some Participants continue to send unnecessary inquires to DTC out of force of habit or because they sometimes find it more convenient. Since DTC does not presently charge for such inquires, there is little incentive for Participants to change those habits. This practice is expensive for DTC and creates costs passed on to all Participants, including those who do not make unnecessary inquiries.

The proposed rule change is intended to encourage cost effective use of DTC's inquiry services and is not intended to limit Participant inquiries.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC. DTC has adopted the proposed rule change pursuant to section 17A(b)(3)(D) which authorizes DTC to adopt reasonable fees for the services it provides.[2]

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed rule change has been discussed with securities industry groups. Written comments from DTC Participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization.[3] At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78q-1(b)(3)(D).

[3] 15 U.S.C. 78s(b)(3)(A).

rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room at the address above. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File Number SR-DTC-91-15 and should be submitted by July 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15907 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

June 28, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities.

Chippewa Resources Corporation
Common Stock, $.001 Par Value (File No. 7-7008)
International Specialty Products, Inc.
Common Stock, $.01 Par Value (File No. 7-7009)
Mutual Risk Management Corporation
Common Stock, $.01 Par Value (File No. 7-7010)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 22, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-15909 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29384; File No. SR-PSE-91-18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Amending PSE Rule 11.9(b) To Require That the Chairman and Vice Chairman of the Equity Floor Trading Committee Be Included in the Composition of the National System Advisory Board

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 7, 1991, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") or ("Exchange"), proposes to amend PSE rule 11.9(b) in order to require that the Chairman and Vice Chairman of the Equity Floor Trading Committee ("EFTC") be included in the composition of the National Market System Advisory Committee ("NMSC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

During its meeting in April 1991, the EFTC of the PSE reviewed an issue concerning jurisdictional boundaries between various Exchange Floor Committees over ITS-related matters. Specifically, the EFTC evaluated the potential for confusion of authority as to whether the EFTC or the NMSC has the final word in an ITS dispute.

In studying the situation, the EFTC considered the scope of authority granted to each of the Committees under the PSE Rules. The EFTC's duties are established in article IV, sections 6(a) and 6(b), of the Constitution and rule 5.11(c). One such responsibility is to resolve floor disputes. Confusion can arise because the NMSC is granted authority to review and advise on ITS issues under rule 11.9(b).

In evaluating this question, the EFTC believes that while the EFTC would resolve disputes arising out of trading activity, the reality is that the NMSC members are usually the ones with the required expertise to properly evaluate many of the ITS issues. As a result, it was the conclusion of the EFTC that the best course of action was to amend rule 11.9(b) to require that the NMSC include the Chairman and Vice Chairman of the EFTC. This solution would allow for EFTC representation and input when ITS disputes occur. It would also satisfy the structural element of the EFTC's jurisdiction under the Committee's authority to resolve and arbitrate trading disputes.

The proposed amendment to PSE rule 14 is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 ("Act") as it is designed to help protect investors and the public interest by helping to provide for a more effective system for the resolution of disputes.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective upon filing pursuant to section 19(b)(3)(A) of the Act because it is concerned with the administration of the self regulatory organization and is consistent with the public interest and purposes of the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments.

Interested persons are invited to submit written date, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number SR-PSE-91-18 and should be submitted by July 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 27, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-16005 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

June 28, 1991.

The above named national securities exchange has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following security:

American Southwest Mortgage Investments Common Stock, $.01 Par Value (File No. 7-7011)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 22, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-15910 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29382; File No. SR-SCCP-91-02]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Revisions to Certain Fees Charged to Participants for Services Provided by the Corporation

June 27, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] notice is hereby given that on June 1, 1991, the Stock Clearing Corporation of Philadelphia ("SCCP" or the "Corporation") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which Items have been prepared by the self-regualtory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

SCCP proposes as a rule change revisions to certain fees charged to participants for services provided by the Corporation. The proposed charges are to be effective as of June 1, 1991.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change amends SCCP's schedule of charges in three respects. First, the proposal identifies Philadelphia Stock Exchange, Inc. ("PHLX") equity specialist accounts and imposes a monthly $650 account charge upon these accounts. This fee recognizes the importance of SCCP reliance on an increasing portion of its revenues to be received from fixed fees from these participants who receives substantial benefits from SCCP. A competitive fee analysis has disclosed that even after the institution of higher fees, SCCP remains highly competitive in this fee category and overall cost structure to equity specialists.

Second, the proposal increases SCCP's value charge for margin accounts from $0.02 per $1,000 of value to $0.035 per $1,000. At this new rate level, the transaction value charge for these trades cleared in a SCCP margin account continues to be the lowest value charge imposed by SCCP.

Third, the proposal would provide for a series of new volume related discounts for PHLX specialists for trades executed on the PHLX and cleared through SCCP. The discounts would range from $0.05 to $0.40 per trade side depending on monthly transaction value generated. The discounts have been formulated to benefit all equity specialists utilizing SCCP at this time, but have been structured carefully to provide significant cost incentives for this group to increase the levels of equity transactions executed on the PHLX and cleared through SCCP. In this regard, transactions executed by a PHLX

specialist in a market center other than the PHLX would not be entitled to these discounts. Similarly, transactions executed on the PHLX, but cleared through a clearing organization other than SCCP also would not be entitled to these discounts.

Historically, SCCP has offered volume related discounts to non-specialists, based on transaction volume. This is the first occasion where PHLX specialists are target recipients of a discount linked directly to encouraging increased executions on the PHLX (SCCP's parent coporation) with concomitant clearing of those trades through SCCP. SCCP believes that this new discount schedule ultimately will enhance SCCP revenues by attracting and retaining clearing service business at SCCP.

The proposed rule change is consistent with section 17A(b)(3)(D) of the Exchange Act in providing for equitable allocations of reasonable dues, fees, and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not perceive any burdens on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

A forthcoming SCCP/PHILADEP Member Bulletin will advise members of officials to whom they may direct questions.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[2] and subparagraph (e) of Rule 19b-4 thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsquent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection at SCCP. All submissions should refer to the file number in the caption above and should be submitted by July 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15908 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

[2] 15 U.S.C. 78s(b)(3)(A).

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration (Ruddick Corporation, Common Stock, $1.00 Par Value) File No. 1-6905

June 28, 1991.

Ruddick Corporation ("Company") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company has applied for listing of the Common Stock on the New York Stock Exchange to be effective July 1, 1991. In considering whether to delist such Common Stock from the Amex, the Company has determined that it would not be in the best interests of its shareholders to maintain a dual listing of its Common Stock because of the fragmentation of the market for such stock that might result. In addition, the Company has considered the additional costs of maintaining dual listing and has determined that there is no benefit to the Company or its shareholders in maintaining the dual listing.

Any interested person may, on or before July 22, 1991 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-15911 Filed 7-3-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register.** If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth Zaic, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Management Development Plan.

Form No.: SBA Form 1100.

Frequency: On Occassion.

Description of Respondents: Individuals receiving SBA Management Counseling.

Annual Responses: 44,000.

Annual Burden: 50,000.

Title: Small Business Development Center Counseling Record.

Form: SBA Form 1062.

Frequency: Monthly.

Description of Respondents: Small Business Development Center Counselors.

Annual Responses: 450,000.

Annual Burden: 45,000.

Cleo Verbillis,

Acting Chief, Administrative Information Branch.

[FR Doc. 15887 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2503]

Louisiana, With Contiguous Counties in Arkansas, Mississippi & Texas; Amendment #4; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated June 20, 1991, to the President's major disaster declaration of May 3, to include the parishes of Beauregard, Bossier, Red River, and Tensas in the State of Louisiana as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding and to establish the incident period as beginning on April 27 and continuing through May 31, 1991.

In addition, applications for economic injury loans from small businesses located in the contiguous parishes of Calcasieu and Jefferson Davis in the State of Louisiana and Newton County in the State of Texas may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 2, 1991, and for economic injury until the close of business on February 3, 1992.

The economic injury numbers are 731300 for Louisiana; 731400 for Arkansas; 731500 for Mississippi, and 7318 for Texas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 28, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-16026 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2505]

Mississippi, Amendment #2; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated June 11 and June 15, 1991, to the President's major disaster declaration of May 17, to include the counties of Chickasaw, Hancock, Oktibbeha, Pontotoc, Prentiss and Union in the State of Mississippi as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding beginning on April 26 and continuing through May 31, 1991.

In addition, applications for economic injury loans from small businesses located in the contiguous Winston County in the State of Mississippi, may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 15, 1991, and for economic injury until the close of business on February 18, 1992.

The economic injury number is 731500 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 19, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-15888 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Areas #2513]

Pennsylvania; Declaration of Disaster Loan Area

Dauphin County and the contiguous counties of Cumberland, Lancaster, Lebanon, Northumberland, Perry, Schuylkill, and York in the State of Pennsylvania constitute a disaster area as a result of damages caused by a fire which occurred at the Steelton Hotel, 120 North Front Street, Steelton, on June 12, 1991. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 26, 1991 and for economic injury until the close of business on March 26, 1992 at the address listed below: Disaster Area 2 Office, Small Business Administration, One Baltimore Place, suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) without credit available elsewhere	9.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 251305 for Pennsylvania. For economic injury the number is 733400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 26, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-15889 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0068]

Surrender of License; Shawmut National Capital Corporation

Notice is hereby given that Shawmut National Capital Corporation, One Federal Street, Boston, Massachusetts 02211 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Shawmut National Capital Corporation was licensed by the Small Business Administration on December 27, 1967.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on June 21, 1991, and accordingly, all rights privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 24, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-15890 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Charlotte, will hold a public meeting from 12 noon to 4:30 p.m. on Thursday, July 18, 1991, at the Blockade Runner Hotel, Wrightsville Beach Island, Wilmington, North Carolina, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gary Keel, District Director, U.S. Small Business Administration, 222 South Church Street, suite 300, Charlotte, North Carolina 28202, telephone (704) 371-6561.

Dated: June 21, 1991.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 91-15891 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, will hold a public meeting at 9 a.m. on Friday, July 19, 1991, at the United Retailers Association, 396 Munoz Rivera Avenue, Hato Rey, Puerto Rico, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, call Mrs. Doris Staszeski, Chairperson, Hato Rey Advisory Council, U.S. Small Business Administration, telephone (809) 759-8405,8502.

Dated: June 21, 1991.

Jean M. Nowak,

D ector, Office of Advisory Councils.

[FR Doc. 91-15892 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate," which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 9.08 percent per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as further amended by section 1 of Public Law 99-226, December 28, 1985 (99 Stat. 1744), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

(Catalog of Federal Domestic Assistance Program No. 59.011, small business investment companies.)

Dated: June 26, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR DOC. 91-15893 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0303]

The Catalyst Fund, Ltd. Issuance of a Small Business Investment Company License

On February 12, 1991 a notice was published in the **Federal Register** (54 FR 53230) stating that an application has been filed by The Catalyst Fund, Ltd. with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1991)) for a license as a small business investment company.

Interested parties were given until close of business March 14, 1991 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06-0303 on May 8, 1991, to The Catalyst Fund, Ltd. to operate as a small business investment company.

Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.

Dated: June 21, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-15894 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0540]

CIBC Wood Gundy Ventures, Inc.; Issuance of a Small Business Investment Company License

On April 24, 1990, a notice was published in the **Federal Register** (55 FR 17344) stating that an application has been filed by CIBC Wood Gundy Ventures, Inc., with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1990)), for a license to operate as a small business investment company.

Interested parties were given until close of business May 24, 1990, to submit their comments to SBA. No comments were received. Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0540 on October 26, 1990, to CIBC Wood Gundy Ventures, Inc. to operate as a small business investment company.

Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.

Dated: June 18, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-15895 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5538]

First Pacific Capital Corp.; Issuance of a Small Business Investment Company License

On April 24, 1990, a notice was published in the **Federal Register** (55 FR 17344) stating that an application has been filed by First Pacific Capital Corporation, with the Small Business Administration (SBA) pursuant to

§ 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1990)), for a license to operate as a small business investment company.

Interested parties were given until close of business May 24, 1990, to submit their comments to SBA. No comments were received. Notice is hereby given that, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5538 on May 10, 1991, to First Pacific Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: June 18, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-15896 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0194]

Rural America Fund, Inc., Issuance of a Small Business Investment Company License

On December 14, 1990, a notice was published in the **Federal Register** (Vol. 55 FR 50444, No. 235) stating that an application has been filed by Rural America Fund, Inc. with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing Small Business Investment Companies (13 CFR 107.102 (1990)) for a license as a small business investment company.

Interested parties were given until close of business Monday, January 7, 1991 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-0194 on April 30, 1991 to Rural America Fund, Inc. to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: June 28, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-16026 Filed 7-3-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 25-16, Electrical Fault and Fire Prevention and Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25-16, Electrical Fault and Fire Prevention and Protection, which provides information concerning faults, overheat, smoke, and fire in transport category airplanes. Acceptable means are provided to minimize the potential for these conditions to occur, and to minimize or contain their effects when they do occur.

DATE: AC 25-16 was issued by the Manager of the Transport Airplane Directorate, Aircraft Certification Service, in Seattle, Washington, on April 5, 1991.

HOW TO OBTAIN COPIES: A copy of AC 25-16 may be obtained by writing to the U.S. Department of Transportation, M-494.3, Subsequent Distribution Unit, Washington, DC 20590.

Issued in Seattle, Washington, on June 17, 1991.

David G. Hmiel,

Manager, Transport Standards Staff, Transport Airplane Directorate.

[FR Doc. 91-15961 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: SR 20, Fredonia To I-5, Skagit County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Skagit County, Washington.

FOR FURTHER INFORMATION CONTACT: Barry F. Morehead, Federal Highway Administration, Evergreen Plaza Building, suite 501, 711 South Capitol Way, Olympia, Washington, 98501, telephone: (206) 753-2120; E.R. Burch, State Design Engineer, Washington State Department of Transportation (WSDOT), Transportation Administration Building, Olympia, Washington, 98204, telephone: (206) 753-6141; or Ronald Q. Anderson, WSDOT District One Administrator, 15325 SE 30th Place, Bellevue, Washington, 98007-6538, telephone (206) 562-4020.

EFFECTIVE DATE: The FHWA, in cooperation with the WSDOT, will prepare an EIS on a proposal to improve or construct a 4-½ mile section of SR 20 from two lanes to four lanes. The highway, mostly limited access, would provide the connecting link between the junction of SR 536 in Fredonia and I-5. The connection to I-5 would occur at either the existing SR 20 interchange or the George Hopper Interchange or somewhere in between. The new alignment will have several signalized intersections.

Letters describing the proposed action and soliciting comments will be sent to the appropriate federal, state and local agencies as well as citizens and organizations that have expressed interest in this project. Meetings with the public, interested community groups and governmental agencies were held in May 1991. In addition, advertisements offering interested persons the opportunity to request a public hearing will be published prior to publication of the draft environmental impact statement. Public notice of actions related to the proposal which identify the date, time, place of meetings and note the length of review periods will be published when appropriate.

To ensure that the full range of issues related to this proposal project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program.

Issued on: June 21, 1991.

Sharon R. Price,

Olympia, Washington, Area Engineer.

[FR Doc. 91-15994 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Bruce D. Wakefield, et al.; Denial of Petition

This notice sets forth the reasons for the denial of a petition submitted to

NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Messrs. Bruce D. Wakefield and Richard B. Horner of the Institute for Safety Analysis, Inc., submitted a petition dated April 23, 1991, requesting a revision to Federal Motor Vehicle Safety Standard (FMVSS) 208 and the initiation of a defect investigation. They stated:

> Section S.7.4.2, which allows the introduction of slack into the shoulder webbing portion of a seatbelt should be eliminated from FMVSS 208. 'Comfort Clips' or "Windowshade' devices require constant monitoring and re-adjustment by the user. It is our belief that optimum crash protection results when the seatbelt is in contact with the user's upper torso. Therefore, these devices, which introduce slack, should not be installed in any vehicle.

This is a rulemaking petition to commence a rulemaking proceeding to amend the agency's safety standards so as to prevent the installation of tension relieving devices on the safety belts of new motor vehicles.

Also, the petitioners state:

> Further, those vehicles manufactured prior to the 1987 Revision of Section S.7.4.2 which utilize slack-inducing devices as provided for in this section should have the belt systems replaced by the manufacturer or require all manufacturers to provide owners of their vehicles with specific instruction as to how to defeat or eliminate the windowshade device.

This is petition to commence a defect investigation to determine whether a safety related defect exists in these pre-1987 vehicles.

Mr. Mark L. Goodson, P.E., submitted a petition dated June 19, 1989, requesting that formal steps be taken to recall all vehicles that use the "window shade" type harness assembly (those equipped with tension relievers). He also requested that Federal Motor Vehicle Safety Standard (FMVSS) 209 be amended to forbid the use of this type of shoulder harness assembly.

The Goodson petition was treated as two petitions; one dealing with the recall of on-the-road vehicles equipped with tension relievers and one addressing rulemaking which would prohibit the installation of tension relieving devices on the safety belts in new vehicles. The first portion of the Goodson petition, requesting NHTSA to other manufacturers to provide notification and remedy of a safety-related defect, was denied November 29, 1989 (54 FR 0301; December 5, 1989). The second portion of the petition, requesting reexamination of NHTSA's previous decision to permit tension relieving devices in new vehicles, was granted. Subsequent to the grant, NHTSA reexamined the issue involved and concluded that, since all manufacturers have either discontinued, or plan to discontinue by the end of the 1991 model year, tension relieving devices, further rulemaking was not warranted. Accordingly, a notice of termination of rulemaking was issued at 56 FR 6602; February 19, 1991.

The Wakefield/Horner petition provided no substantive information beyond that supplied by Mr. Goodson and is essentially identical to the Goodson petition. It requested a rulemaking and a defect investigation proceeding. No new information was provided by the petitioners and the issues involved were addressed in the actions taken in response to the Goodson petition, discussed above. Therefore, the subject petition is denied.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on June 28, 1991.

William A. Boehly,

Associate Administrator for Enforcement.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-15934 Filed 7-3-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: June 28, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.

Form Number: PD 4087, PD 4087-1, PD 4087-3.

Type of Review: New Collection.

Title: Bond of Indemnity.

Description: These forms are used to support claims/applications for relief on account of lost, stolen, or destroyed securities. The form serves as an indemnification agreement to guarantee reimbursement to the Government in the event of an erroneous payment of securities on which relief was previously obtained from the Department.

Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 500 hours.

OMB Number: New.

Form Number: PD 3062-4.

Type of Review: New Collection.

Title: Claim for Relief on Account of Nonreceipt of United States Savings Bonds.

Description: This application is used by owner(s) to request substitute savings bond(s) in lieu of bond(s) not received.

Respondents: Individuals or households.

Estimated Number of Respondents: 30,000.

Estimated Number of Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,010 hours.

OMB Number: 1535-0005.

Form Number: PD 3253.

Type of Review: Extension.

Title: Exchange Application for U.S. Savings Bonds of Series HH.

Description: This application is used by owners of bonds of Series EE/E or Notes to request exchange for Series HH.

Respondents: Individuals or households.

Estimated Number of Respondents: 60,000.

Estimated Burden Hours Per Response: 40 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 39,960 hours.

OMB Number: 1535-0014.

Form Number: PD 1025.

Type of Review: Extension.

Title: Application for Relief on Account of Loss, Theft or Destruction of United States Registered Securities.

Description: This form is needed and required by the Bureau of the Public Debt to obtain compensation for lost, stolen, or destroyed securities. It is generally used by parties that have purchased securities or the owner of

registered securities when such securities are no longer in their possession.

Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 500.

Estimated Number of Hours Per Response: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 460 hours.

OMB Number: 1535–0084.

Form Number: PD 5263 and PD 5263–1.

Type of Review: Extension.

Title: Order for Series EE U.S. Savings Bonds, and Order for Series EE U.S. Savings Bonds to be Registered in Name of Fiduciary.

Description: These forms are used to indicate registration and number and denomination of Series EE Savings Bonds to be purchased. They are also used to document the request for issuance.

Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit.

Estimated Number of Respondents: 10,000,000.

Estimated Number of Hours Per Response: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 830,000.

Clearance Officer: Rita DeNagy (202) 447–1640, Bureau of the Public Debt, room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239–0001.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–15879 Filed 7–3–91; 8:45 am]

BILLING CODE 4810–40–M

Public Information Collection Requirements Submitted to OMB for Review

Date: June 27, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Office listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0074.

Form Number: IRS Form 1040 and Related Schedules A, B, C, D, EIC, F, R, and SE.

Type of Review: Revision.

Title: U.S. Individual Income Tax Return.

Description: This form is used by individuals to report their income tax and compute their correct tax liability. The data is used to verify that the items reported on the form are correct and are also for general statistical use.

Respondents: Individuals or households.

Estimated Number of Respondents: 71,488,116.

ESTIMATED BURDEN HOURS PER RESPONDENT

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending, the form to the IRS
1040	3 hrs., 8 min.	2 hrs., 31 min.	3 hrs., 23, min.	41 min.
Sched. A	2 hrs., 32 min.	25 min.	1 hr., 9 min.	27 min.
Sched. B	33 min.	9 min.	17 min.	20 min.
Sched. C	6 hrs., 13 min.	1 hr., 5 min.	1 hr., 57 min.	25 min.
Sched. D	51 min.	54 min.	1 hr. 7 min.	41 min.
Sched. D–1	13 min.		13 min.	35 min.
Sched. E	2 hrs., 52 min.	1 hr., 6 min.	1 hr., 16 min.	35 min.
Sched. EIC	40 min.	19 min.	50 min.	55 min.
Sched. F:				
Cash	4 hrs., 2 min.	34 min.	1 hr., 19 min.	20 min.
Accrual	4 hrs., 22 min.	26 min.	1 hr., 20 min.	20 min.
Sched. R	20 min.	16 min.	21 min.	35 min.
Sched. SE:				
Short	20 min.	13 min.	10 min.	14 min.
Long	26 min.	22 min.	38 min.	20 min.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,150,504,275 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–15880 Filed 7–3–91; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting

documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Verification of VA Benefit-Related indebtedness, VA Form 26-8937.
2. The form is used by lenders authorized to close VA-guaranteed loans on the automatic basis to determine whether the veteran-borrower has any VA benefit-related indebtedness prior to loan closing.
3. Individuals or households.
4. 14,167 hours.
5. 5 minutes.
6. On occasion.
7. 170,000 respondents.

[FR Doc. 91-15941 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total amount reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503 (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Transfer of Ownership Data—Portfolio Loan, VA Form 26-8792.
2. The form is completed by assumers of VA portfolio loans in order to provide information needed for servicing of such loans. The information is used to update portfolio loan records with names and related data on current obligors.
3. Individuals or households.
4. 167 hours.
5. 5 minutes.
6. On occasion.
7. 2,000 respondents.

[FR Doc. 91-15942 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form numbers(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) estimated number of responses.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503 (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Notice of Change in Student Status, VA Form 22-1999b and 22-1999b-1.
2. The form is issued by school certifying officials to report changes in the enrollment status of a student who is in receipt of VA benefits. The information is used by VA as a basis for adjusting the student's benefits.
3. State or local governments; Businesses or other for-profit; Non-profit institutions; Small business or organizations.
4. 82,867 hours.
5. 5 minutes.
6. On occasion.
7. 994,400 responses.

[FR Doc. 91-15943 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of

response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503 (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Veterans Mortgage Life Insurance Statement, VA Form 29-8636.
2. The form is used by veterans who have received specially adapted housing grants to provide the necessary information to determine Veterans Mortgage Life Insurance premiums or to decline the offer of insurance.
3. Individuals or households.
4. 112 hours.
5. 15 minutes.
6. On occasion.
7. 448 respondents.

[FR Doc. 91-15944 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only), VA Form 26-8629; Manufactured Home Loan Claim Under Loan Guaranty—Combination Loan—Manufactured Home Unit and Lot or Lot Only, VA Form 26-8630; and 38 CFR 36.4215, Records Keeping Requirement.
2. The forms are completed and submitted by the holder of a foreclosed VA guaranteed manufactured home unit loan or combination loan as a prerequisite to payment of claim. The information is used to determine claim payment due the holder.
3. Individuals or households; Businesses or other for-profit.
4. 1,315 reporting hours and 1,582 recordkeeping hours.
5. 20 minutes per form.
6. On occasion.
7. 3,944 respondents.

[FR Doc. 91-15945 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Veteran's Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant, VA Form 26-4555.
2. The form is used to gather the necessary information to determine the veteran's eligibility to specially adapted housing or the special home adaptation grant.
3. Individuals or households.
4. 267 hours.
5. 10 minutes.
6. On occasion.
7. 1,600 respondents.

[FR Doc. 91-15946 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs

has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before August 5, 1991.

Dated: June 28, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. VAAR Subpart 819.70, Veteran-Owned and Operated Small Business, (Exceptions to SF 18 and SF 129).

2. The information is used by VA to identify veteran-owned small businesses to ensure eligible veteran-owned firms are given an opportunity to participate in VA solicitations for goods and services.

3. Businesses or other for-profit; Small businesses or organization.

4. 14,181 hours.

5. 15 seconds.

6. On occasion.

7. 3,403,500 respondents.

[FR Doc. 91-15947 Filed 7-3-91; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 129
Friday, July 5, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:27 p.m. on Monday, July 1, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

A recommendation concerning an administrative enforcement proceeding.
Matters relating to a certain financial institution.
A matter relating to the Corporation's corporate activity.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (C)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building location at 550 17th Street, NW., Washington, DC.

Dated: July 2, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-16136 Filed 7-2-91; 1:32 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 9, 1991, 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This Meeting Will be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, July 11, 1991, 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This Meeting Will be Open to the Public.

ITEMS TO BE DISCUSSED:

AO 1991-18: Gerard E. Harper on behalf of the New York State Democratic Committee
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376-3155.

Delores Harris,

Administrative Assistant, Office of the Secretariat.

[FR Doc. 91-16178 Filed 72-2-91; 3:15 pm]

BILLING CODE 6715-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 10:00 a.m., July 15, 1991.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the last meeting.
2. Thrift Savings Plan activities report.
3. Review of National Finance Center budget revisions.
4. Review of Price Waterhouse alternative recordkeeper study.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: July 1, 1991.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 91-16074 Filed 7-2-91; 11:01 am]

BILLING CODE 6760-01-M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, July 9, 1991.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTER TO BE DISCUSSED:

There has been a change in the agenda listed in the notice, served July 2, 1991. The following item has been removed from the agenda:

Ex Parte No. MC-195, *Petition of Regular Common Carrier Conference for Establishment of Minimum Rate Standard and Other Relief.*

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of External Affairs, Telephone: (202) 275-7252, TDD: (202) 275-1721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-16072 Filed 7-2-91; 11:00 am]

BILLING CODE 7035-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:02 p.m. on Monday, July 1, 1991, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to (1) The resolution of failed thrift institutions, and (2) contracting matters.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Director of Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6),

(c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550 17th Street, NW., Washington, DC.

Dated: July 2, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91-16137 Filed 7-2-91; 1:33 pm]

BILLING CODE 6714-01-M

federal register

Friday
July 5, 1991

Part II

Department of Commerce

Bureau of Export Administration

Upcoming Changes in U.S. National Security Controls; Notice

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 910658-1158]

Notice of Upcoming Changes in U.S. National Security Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice.

SUMMARY: The United States has been participating with its COCOM allies in developing a "Core List" of dual-use items that must be subject to continued export controls in support of national security objectives. The resulting list contains only the most critical goods and technologies that are essential to maintaining military superiority, while recognizing that broad diffusion of certain other items has made continued control impracticable.

The "Core List" will become the new International Industrial List, and will form the basis for a completely new Commerce Control List (CCL) (Supplement No. 1 to 15 CFR 799.1). The new CCL will be published later this summer, and will include not only the COCOM agreed national security list, but also controls based on nuclear nonproliferation, foreign policy, and short supply. The United States expects that the dual-use commodities and technologies listed below will be controlled for national security purposes effective September 1, 1991. However, when this notice was submitted for publication, drafting groups in COCOM continued to examine wording for propulsion systems 9E03.e and telecommunications and information security category 5. The reader may expect changes in wording in those areas. Readers are cautioned that some of the listed items may be controlled under the International Traffic in Arms Regulations (ITAR), administered by the Department of State.

This is an advisory notice only—it does not change the export controls currently in effect, and does not represent the CCL as it will appear after September 1, 1991.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature, the following persons in the Office of Technology and Policy Analysis are available:

Category 1: Jeff Tripp—(202) 377-1309
Category 2: Surendra Dhir—(202) 377-5695
Category 3: Jerald Beiter—(202) 377-1641
Category 4: Randolf Williams—(202) 377-0708
Category 5: Joseph Westlake—(202) 377-0731
Category 6: Joseph Chuchla—(202) 377-1641
Categories 7 and 9: Bruce Webb—(202) 377-3806
Category 8: Steve Clagett—(202) 377-8550

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1991, the United States and 16 Western allies agreed in Paris to implement a new system of export controls for dual-use goods and technologies with significant military applications. The agreement follows a major review by member states of the Coordinating Committee for Multilateral Export Controls (COCOM). COCOM comprises the NATO countries (except Iceland), Australia, and Japan. COCOM controls are aimed at keeping militarily significant items from such countries as the Soviet Union, the former members of the Warsaw Pact, and the People's Republic of China. The agreement continues the trend toward reducing controls on items destined for Poland, Hungary, and Czechoslovakia, reflecting agreements by these countries to prevent diversion of Western technology.

The list provided here represents the U.S. dual-use export controls that would be imposed for national security reasons as a result of COCOM agreement on a new International Industrial List. The United States does not maintain national security controls unless there is a multilateral commitment to impose such controls. The list is presented in the modified outline form agreed to by the seventeen COCOM governments, except that the first three places in the outline are compressed here into new entry numbers (Export Control Classification Numbers—ECCNs) that will be used in the new CCL. Use of these four-character ECCNs will facilitate computerization and uniform submission of export license applications. Exporters are encouraged to identify where their products are located on the list to aid in an orderly conversion to the new system.

The list provided here is divided into nine categories, as follows:

1. Advanced materials
2. Material processing
3. Electronics
4. Computers
5. Telecommunications and information security
6. Sensors and lasers
7. Navigation and avionics
8. Marine
9. Propulsion.

For the first time, the CCL will include all software and technical data. Each category in the list below is structured to provide controls for the following five subcategories:

A. Equipment, assemblies, and components
B. Production and test equipment
C. Materials
D. Software
E. Technology.

The list is published below. Users are cautioned that it represents only items under national security controls and is not the complete CCL, that it is subject to changes, and that it is not an official control list. Parties wishing to export should continue to consult the existing CCL at 15 CFR 799.1 until the new CCL that will be published later this summer takes effect.

Authority

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986); Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

NEW INTERNATIONAL INDUSTRIAL LIST

Category 1—Advanced Materials

A. Equipment, Assemblies and Components

1A01 Components made from fluorinated compounds.

a. Seals, gaskets, sealants or fuel bladders specially designed for aircraft or aerospace use made from more than 50% of any of the materials embargoed by 1C09.b or c;

b. Piezoelectric polymers and copolymers made from vinylidene fluoride:

1. In sheet or film form; and

2. With a thickness exceeding 200 micrometre;

c. Seals, gaskets, valve seats, bladders or diaphragms made from fluoroelastomers containing at least one vinylether monomer, specially designed for aircraft, aerospace or missile use;

1A02 "Composite" structures or laminates.

a. Having an organic "matrix" and made from materials embargoed by 1C10.c, d or e; or

b. Having a metal or carbon "matrix" and made from:

1. Carbon "fibrous and filamentary materials" with:

a. A "specific modulus" exceeding 10.15×10^{6} m; and

b. A "specific tensile strength" exceeding 17.7×10^{4} m; or

2. Materials embargoed by 1C10.c;

1A03 Manufactures of non-fluorinated polymeric substances embargoed by 1C08.a, in film, sheet, tape or ribbon form:

a. With a thickness exceeding 0.254 mm; or

b. Coated or laminated with carbon, graphite, metals or magnetic substances.

B. Test, Inspection and Production Equipment

1B01 Equipment for the production of fibres, prepregs, preforms or composites embargoed by 1A02 or 1C10, as follows, and specially designed components and accessories therefor:

a. Filament winding machines of which the motions for positioning, wrapping and winding fibres are coordinated and programmed in three or more axes, specially designed for the manufacture of "composite" structures or laminates from "fibrous and filamentary materials";

b. Tape-laying or tow-placement machines of which the motions for positioning and laying tape, tows or sheets are coordinated and programmed in two or more axes, specially designed for the manufacture of "composite" airframe or missile structures;

c. Multidirectional, multidimensional weaving machines or interlacing machines, including adapters and modification kits, for weaving, interlacing or braiding fibres to manufacture "composite" structures, except textile machinery not modified for the above end-uses;

d. Equipment specially designed or adapted for the production of reinforcement fibres, as follows:

1. Equipment for converting polymeric fibres (such as polyacrylonitrile, rayon, pitch or polycarbosilane) into carbon fibres or silicon carbide fibres, including special equipment to strain the fibre during heating;

2. Equipment for the chemical vapour deposition of elements or compounds on heated filamentary substrates to manufacture silicon carbide fibres;

3. Equipment for the wet-spinning of refractory ceramics (such as aluminium oxide);

4. Equipment for converting aluminium containing precursor fibres into alumina fibres by heat treatment;

e. Equipment for producing prepregs embargoed by 1C10.e by the hot melt method;

f. Non-destructive inspection equipment capable of inspecting defects three dimensionally, using ultrasonic or X-ray tomography and specially designed for "composite" materials;

1B02 Systems and components therefor specially designed for producing metal alloys, metal alloy powder or alloyed materials embargoed by 1C02.a.2, 1C02.b, or 1C02.c.

1B03 Tools, dies, moulds or fixtures, for "superplastic forming" or "diffusion bonding" titanium or aluminium or their alloys, specially designed for the manufacture of the following.

a. Airframe or aerospace structures;

b. Aircraft or aerospace engines; or

c. Specially designed components for those structures or engines.

C. Materials

1C01 Materials specially designed for use as absorbers of electromagnetic waves, or intrinsically conductive polymers .

a. Materials for absorbing frequencies exceeding 2×10^{8} Hz but less than 3×10^{12} Hz, except materials as follows:

1. Hair type absorbers, constructed of natural or synthetic fibres, with non-magnetic loading to provide absorption;

2. Absorbers having no magnetic loss and whose incident surface is non-planar in shape, including pyramids, cones, wedges and convoluted surfaces;

3. Planar absorbers:

a. Made from:

1. Plastic foam materials (flexible or non-flexible) with carbon-loading, or organic materials, including binders, providing more than 5% echo compared with metal over a bandwidth exceeding ±15% of the centre frequency of the incident energy, and not capable of withstanding temperatures exceeding 450 K (177 °C); or

2. Ceramic materials providing more than 20% echo compared with metal over a bandwidth exceeding ±15% of the centre frequency of the incident energy, and not capable of withstanding temperatures exceeding 800 K (527 °C);

b. Tensile strength less than 7×10^{6} N/m²; and

c. Compressive strength less than 14×10G56 N/m²;

Technical Note: Absorption test samples for 1C01.a.3.a should be a square at least 5 wavelengths (of centre frequency) on a side and positioned in the far field of the radiating element.

4. Planar absorbers made of sintered ferrite, with:

a. A specific gravity exceeding 4.4; and

b. A maximum operating temperature of 548 K (275 °C);

Note: Nothing in 1C01.a releases magnetic materials to provide absorption when contained in paint.

b. Materials for absorbing frequencies exceeding 1.5×10^{14} Hz but less than 3.7×10^{14} Hz and not transparent to visible light;

c. Intrinsically conductive polymeric materials with a bulk electrical conductivity exceeding 10,000 S/m (Siemens per metre) or a sheet (surface) resistivity of less than 100 ohms/square, based on any of the following polymers:

1. Polyaniline;

2. Polypyrrole;

3. Polythiophene;

4. Poly phenylene-vinylene;

5. Poly thienylene-vinylene;

Technical Note: Bulk electrical conductivity and sheet (surface) resistivity should be determined using ASTM D-257 or national equivalents.

1C02 Metal alloys, metal alloy powder or alloyed materials.

a. Metal alloys, as follows:

1. Nickel or titanium-based alloys in the form of aluminides, as follows, in crude or semi-fabricated forms:

a. Nickel aluminides containing 10 weight percent or more aluminium;

b. Titanium aluminides containing 12 weight percent or more aluminium;

2. Metal alloys, as follows, made from metal alloy powder or particulate material embargoed by 1C02.b:

a. Nickel alloys with:

1. A stress-rupture life of 10,000 hours or longer at 923 K (650 °C) and at a stress of 550 MPa; or

2. A low cycle fatigue life of 10,000 cycles or more at 823 K (550 °C) at a maximum stress of 700 MPa;

b. Niobium alloys with:

1. A stress-rupture life of 10,000 hours or longer at 1,073 K (800 °C) and at a stress of 400 MPa; or

2. A low cycle fatigue life of 10,000 cycles or more at 973 K (700 °C) at a maximum stress of 700 MPa;

c. Titanium alloys with:

1. A stress-rupture life of 10,000 hours or longer at 723 K (450 °C) and at a stress of 200 MPa; or

2. A low cycle fatigue life of 10,000 cycles or more at 723 K (450 °C) at a maximum stress of 400 MPa;

d. Aluminium alloys with a tensile strength of:

1. 240 MPa or more at 473 K (200 °C); or

2. 415 MPa or more at 298 K (25 °C);

e. Magnesium alloys with a tensile strength of 345 MPa or more and a corrosion rate of less than 1 mm/year in 3% sodium chloride aqueous solution measured in accordance with ASTM standard G-31 or national equivalents;

Technical Notes: 1. The metal alloys in 1C02.a are those containing a higher

percentage by weight of the stated metal than of any other element.

2. Stress-rupture life should be measured in accordance with ASTM standard E-139 or national equivalents.

3. Low cycle fatigue life should be measured in accordance with ASTM Standard E-606 'Recommended Practice for Constant-Amplitude Low-Cycle Fatigue Testing' or national equivalents. Testing should be axial with an average stress ratio equal to 1 and a stress-concentration factor (K_t) equal to 1. The average stress is defined as maximum stress minus minimum stress divided by maximum stress.

b. Metal alloy powder or particulate material for materials embargoed by 1C02.a, as follows:

1. Made from any of the following composition systems:

a. Nickel alloys (Ni-Al-X, Ni-X-Al) qualified for turbine engine parts or components, i.e. with less than 3 non-metallic particles (introduced during the manufacturing process) larger than 100 micrometre in 10^9 alloy particles;

b. Niobium alloys (Nb-Al-X or Nb-X-Al, Nb-Si-X or Nb-X-Si, Nb-Ti-X or Nb-X-Ti);

c. Titanium alloys (Ti-Al-X or Ti-X-Al);

d. Aluminium alloys (Al-Mg-X or Al-X-Mg, Al-Zn-X or Al-X-Zn, Al-Fe-X or Al-X-Fe); or

e. Magnesium alloys (Mg-Al-X or Mg-X-Al); and

N.B.: X equals one or more alloying elements.

2. Made in a controlled environment by any of the following processes:

a. "Vacuum atomisation";

b. "Gas atomisation";

c. "Rotary atomization";

d. "Splat quenching";

e. "Melt spinning" and "comminution";

f. "Melt extraction" and "comminution"; or

g. "Mechanical alloying";

c. Alloyed materials, in the form of uncomminuted flakes, ribbons or thin rods produced in a controlled environment by "splat quenching," "melt spinning" or "melt extraction", used in the manufacture of metal alloy powder or particulate material embargoed by 1C02.b;

Note: 1C02 does not embargo metal alloys, metal alloy powder or alloyed materials for coating substrates.

1C03 Magnetic metals, of all types and of whatever form, having any of the following characteristics:

a. Initial relative permeability 120,000 or more and thickness 0.05 mm or less;

Technical Note: Measurement of initial permeability must be performed on fully annealed materials.

b. Magnetostrictive alloys with:

1. A saturation magnetostriction of more than 5×10^{-4}; or

2. A magnetomechanical coupling factor (k) of more than 0.8; or

c. Amorphous alloy strips with:

1. A composition having a minimum of 75 weight percent of iron, cobalt or nickel; and

2. A saturation magnetic induction (B_s) of 1.6 T or more, and:

a. A strip thickness of 0.02 mm or less; or

b. An electrical resistivity of 2×10^{-6} ohm-m or more;

1C04 Uranium titanium alloys or tungsten alloys with a "matrix" based on iron, nickel or copper, with all of the following characteristics:

a. A density exceeding 17.5 g/cm^3;

b. An elastic limit exceeding 1,250 MPa;

c. An ultimate tensile strength exceeding 1,270 MPa; and

d. An elongation exceeding 8%;

1C05 "Superconductive" composite conductors in lengths exceeding 100 m or with a mass exceeding 100 g.

a. Multifilamentary "superconductive" composite conductors containing one or more niobium-titanium filaments:

1. Embedded in a matrix other than a copper or copper based mixed matrix; or

2. With a cross-section area less than 0.28×10^{-4} mm^2 (i.e., 6 micrometre in diameter for circular filaments);

b. "Superconductive" composite conductors consisting of one or more "superconductive" filaments other than niobium-titanium:

1. With a "critical temperature" at zero magnetic induction exceeding 9.85 K (−263.31 °C) but less than 24 K (−249.16 °C);

2. With a cross-section of less than 0.28×10^{-4} mm^2; and

3. Which remain in the "superconductive" state at a temperature of 4.2 K (−268.96 °C) when exposed to a magnetic field corresponding to a magnetic induction of 12 T;

1C06 Fluids and lubricating materials.

a. Hydraulic fluids containing, as their principal ingredients, any of the following compounds or materials:

1. Synthetic hydrocarbon oils or silahydrocarbon oils with:

a. A flash point exceeding 477 K (204 °C);

b. A pour point at 239 K (−34 °C) or less;

c. A viscosity index of 75 or more; and

d. A thermal stability of 616 K (343 °C); or

Note: For the purpose of 1C06.a.1, silahydrocarbon oils contain exclusively silicon, hydrogen and carbon.

2. Chlorofluorocarbons with:

a. No flash point;

b. An autogenous ignition temperature exceeding 977 K (704 °C);

c. A pour point at 219 K (−54 °C) or less;

d. A viscosity index of 80 or more; and

e. A boiling point at 473 K (200 °C) or higher;

Note: For the purpose of 1C06.a.2, chlorofluorocarbons contain exclusively carbon, fluorine and chlorine.

b. Lubricating materials containing, as their principal ingredients, any of the following compounds or materials:

1. Phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than two ether or thio-ether functions or mixtures thereof; or

2. Fluorinated silicone fluids with a kinematic viscosity of less than 5,000 mm^2/s (5,000 centistokes) measured at 298 K (25 °C);

c. Damping or flotation fluids with a purity exceeding 99.8%, containing less than 25 particles of 200 micrometre or larger in size per 100 ml and made from at least 85% of any of the following compounds or materials:

1. Dibromotetrafluoroethane;

2. Polychlorotrifluoroethylene (oily and waxy modifications only); or

3. Polybromotrifluoroethylene;

Technical Note: For the purpose of 1C06:

a. Flash point is determined using the Cleveland Open Cup Method described in ASTM D-92 or national equivalents.

b. Pour point is determined using the method described in ASTM D-97 or national equivalents.

c. Viscosity index is determined using the method described in ASTM D-2270 or national equivalents.

d. Thermal stability is determined by the following test procedure or national equivalents: Twenty ml of the fluid under test is placed in a 46 ml type 317 stainless steel chamber containing one each of 12.5 mm (nominal) diameter balls of M-10 tool steel, 52100 steel and naval bronze (60% Cu, 39% Zn, 0.75% Sn). The chamber is purged with nitrogen, sealed at atmospheric pressure and the temperature raised to and maintained at 644±6 K (371±6 °C) for six hours. The specimen will be considered thermally stable if, on completion of the above procedure, all of the following conditions are met:

1. The loss in weight of each ball is less than 10 mg/mm^2 of ball surface;

2. The change in original viscosity as determined at 311 K (38 °C) is less than 25%; and

3. The total acid or base number is less than 0.40.

e. Autogenous ignition temperature is determined using the method described in ASTM E-659 or national equivalents.

1C07 Ceramic base materials, non-"composite" ceramic materials, ceramic-"matrix" "composite" materials and precursor materials.

a. Base materials of single or complex borides of titanium having total metallic impurities, excluding intentional additions, of less than 5,000 ppm, an average particle size equal to or less than 5 micrometre and no more than 10% of the particles larger than 10 micrometre;

b. Non-"composite" ceramic materials in crude or semi-fabricated form, except abrasives, composed of borides of titanium with a density of 98% or more of the theoretical density;

c. Ceramic-ceramic "composite" materials with a glass or oxide-"matrix" and reinforced with fibres from any of the following systems:

1. Si-N;
2. Si-C;
3. Si-Al-O-N; or
4. Si-O-N;

d. Ceramic-ceramic "composite" materials, with or without a continuous metallic phase, containing finely dispersed particles or phases of any fibrous or whisker-like material, where carbides or nitrides of silicon, zirconium or boron form the "matrix";

e. Precursor materials (i.e., special purpose polymeric or metallo-organic materials) for producing any phase or phases of the materials embargoed by 1C07.c, as follows:

1. Polydiorganosilanes (for producing silicon carbide);
2. Polysilazanes (for producing silicon nitride); or
3. Polycarbosilazanes (for producing ceramics with silicon, carbon and nitrogen components);

1C08 Non-fluorinated polymeric substances.

a. 1. Bismaleimides;
2. Aromatic polyamide-imides;
3. Aromatic polyimides;
4. Aromatic polyetherimides having a glass transition temperature (T_g) exceeding 503 K (230 °C) as measured by the wet method.

Note: 1C08.a does not embargo non-fusible compression moulding powders or moulded forms;

b. Thermoplastic liquid crystal copolymers having a heat distortion temperature exceeding 523 K (250 °C) measured according to ASTM D-648, method A, or national equivalents, with a load of 1.82 N/mm^2 and composed of:

1. Either of the following:
a. Phenylene, biphenylene or naphthalene; or
b. Methyl, tertiary-butyl or phenyl substituted phenylene, biphenylene or naphthalene; and
2. Any of the following acids:
a. Terephthalic acid;
b. 6-hydroxy-2 naphthoic acid; or
c. 4-hydroxybenzoic acid;

c. Polyarylene ether ketones, as follows:

1. Polyether ether ketone (PEEK);
2. Polyether ketone ketone (PEKK);
3. Polyether ketone (PEK);
4. Polyether ketone ether ketone ketone (PEKEKK);

d. Polyarylene ketones;

e. Polyarylene sulphides, where the arylene group is biphenylene, triphenylene or combinations thereof;

f. Polybiphenylenethersulphone;

1C09 Unprocessed fluorinated compounds.

a. Copolymers of vinylidene fluoride having 75% or more beta crystalline structure without stretching;

b. Fluorinated polyimides containing 30% or more of combined fluorine;

c. Fluorinated phosphazene elastomers containing 30% or more of combined fluorine;

1C10 "Fibrous and filamentary materials" which may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates.

a. Organic "fibrous and filamentary materials", except polyethylene, with:

1. A "specific modulus" exceeding 12.7×10^6 m; and
2. A "specific tensile strength" exceeding 23.5×10^4 m;

b. Carbon "fibrous and filamentary materials" with:

1. A "specific modulus" exceeding 12.7×10^6 m; and
2. A "specific tensile strength" exceeding 23.5×10^4 m;

Technical Note: Properties for materials described in 1C10.b should be determined using SACMA recommended methods SRM 12 to 17, or national equivalent tow tests, such as Japanese Industrial Standard JIS-R-7601, Paragraph 6.6.2., and based on lot average.

c. Inorganic "fibrous and filamentary materials" with:

1. A "specific modulus" exceeding 2.54×10^6 m; and
2. A melting, decomposition or sublimation point exceeding 1,922 K (1,649 °C) in an inert environment;

except

a. Discontinuous, multiphase, polycrystalline alumina fibres in chopped fibre or random mat form, containing 3 weight percent or more silica, with a "specific modulus" of less than 10×10^6 m;

b. Molybdenum and molybdenum alloy fibres;

c. Boron fibres;

d. Discontinuous ceramic fibres with a melting, decomposition or sublimation point lower than 2,043 K (1,770 °C) in an inert environment;

d. "Fibrous or filamentary materials":

1. composed of any of the following:
a. Polyetherimides embargoed by 1C08.a; or
b. Materials embargoed by 1C08.b, c, d, e, or f; or
2. Composed of materials embargoed by 1C10.d.1.a or b and "commingled" with other fibres embargoed by 1C10.a, b, or c;

e. Resin- or pitch-impregnated fibres (prepregs), metal or carbon-coated fibres (preforms) or "carbon fibre preforms", as follows:

1. Made from "fibrous and filamentary materials" embargoed by 1C10.a, b, or c; or
2. Made from organic or carbon "fibrous and filamentary materials":
a. With a "specific tensile strength" exceeding 17.7×10^4 m;
b. With a "specific modulus" exceeding 10.15×10^6 m;
c. Not embargoed by 1C10.a or b; and
d. When impregnated with materials embargoed by 1C08 or 1C09.b or with phenolic, or epoxy resins having a glass transition temperature (T_g) exceeding 383 K (110 °C);

D. Software

1D01 "Software" specially designed or modified for the "development", "production" or "use" of equipment embargoed by 1B.

1D02 "Software" for the "development" of organic "matrix", metal "matrix" or carbon "matrix" laminates or "composites".

E. Technology

1E01 Technology according to the General Technology Note for the "development" or "production" of equipment or materials embargoed by 1A01.b, 1A01.c, 1A02, 1A03, 1B, or 1C.

1E02 Other technology.

a. Technology for the "development" or "production" of polybenzothiazoles or polybenzoxazoles;

b. Technology for the "development" or "production" of fluoroelastomer compounds containing at least one vinylether monomer;

c. Technology for the design or "production" of the following base

materials or non-"composite" ceramic materials:

1. Base materials having all the following characteristics:

a. Any of the following compositions:

1. Single or complex oxides of zirconium and complex oxides of silicon or aluminium;

2. Single nitrides of boron (cubic crystalline forms);

3. Single or complex carbides of silicon or boron; or

4. Single or complex nitrides of silicon;

b. Total metallic impurities, excluding intentional additions, of less than:

1. 1,000 ppm for single oxides or carbides; or

2. 5,000 ppm for complex compounds or single nitrides; and

c. 1. Average particle size equal to or less than 5 micrometre and no more than 10% of the particles larger than 10 micrometre; or

N.B.: For zirconia, these limits are 1 micrometre and 5 micrometre respectively;

2. a. Platelets with a length to thickness ratio exceeding 5;

b. Whiskers with a length to diameter ratio exceeding 10 for diameters less than 2 micrometre; and

c. Continuous or chopped fibres less than 10 micrometre in diameter.

2. Non-"composite" ceramic materials, except abrasives, composed of the materials described in 1E02.c.1;

d. Technology for the "production" of aromatic polyamide fibres;

e. Technology for the installation, maintenance or repair of materials embargoed by 1C01.;

f. Technology for the repair of materials embargoed by 1A02, 1C07.c, or 1C07.d.

Category 2—Materials Processing

A. Equipment, Assemblies and Components

Anti-friction bearings or bearing systems, and components therefor.

Note: 2A does not embargo balls with tolerances specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse.

2A01 Ball bearings or solid roller bearings, except tapered roller bearings, having tolerances specified by the manufacturer in accordance with ABEC 7, ABEC 7P, ABEC 7T or ISO Standard Class 4 or better (or national equivalents), and having any of the following characteristics.

a. Rings, balls or rollers made from monel or beryllium;

b. Manufactured for use at operating temperatures above 573 K (300 °C) either by using special materials or by special heat treatment; or

c. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN;

(For quiet running bearings, see item 9 on ITAR category VI.)

2A02 Other ball bearings or solid roller bearings, except tapered roller bearings, having tolerances specified by the manufacturer in accordance with ABEC 9, ABEC 9P or ISO Standard Class 2 or better (or national equivalents).

2A03 Solid tapered roller bearings, having tolerances specified by the manufacturer in accordance with ANSI/AFBMA Class 00 (inch) or Class A (metric) or better (or national equivalents) and having either of the following characteristics.

a. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN; or

b. Manufactured for use at operating temperatures below 219 K (−54 °C) or above 423 K (150 °C);

2A04 Gas-lubricated foil bearings manufactured for use at operating temperatures of 561 K (288 °C) or higher and a unit load capacity exceeding 1 MPa.

2A05 Active magnetic bearing systems.

2A06 Fabric-lined self-aligning or fabric-lined journal sliding bearings manufactured for use at operating temperatures below 219 K (−54 °C) or above 423 K (150 °C).

Technical Notes: 1. DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm.

2. Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation.

B. Test, Inspection and Production Equipment

2B01 "Numerical control" units, "motion control boards" specially designed for "numerical control" applications on machine tools, machine tools, and specially designed components therefor.

Technical Notes: 1. Secondary parallell contouring axes, e.g., the w-axis on horizontal boring mills or a secondary rotary axis the centre line of which is parallel to the primary rotary axis, are not counted in the total number of contouring axes.

N.B.: Rotary axes need not rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

2. Axis nomenclature shall be in accordance with International Standard ISO 841, "Numerical Control Machines—Axis and Motion Nomenclature".

a. "Numerical control" units for machine tools, as follows, and specially designed components therefor:

1. Having more than four interpolating axes which can be coordinated simultaneously for "contouring control"; or

2. Having two, three or four interpolating axes which can be coordinated simultaneously for "contouring control" and:

a. Capable of "real-time processing" of data to modify, during the machining operation, tool path, feed rate and spindle data by either:

1. Automatic calculation and modification of part programme data for machining in two or more axes by means of measuring cycles and access to source data; or

2. "Adaptive control" with more than one physical variable measured and processing by means of a computing model (strategy) to change one or more machining instructions to optimize the process;

b. Capable of receiving directly (on-line) and processing computer-aided-design (CAD) data for internal preparation of machine instructions; or

c. Capable, without modification, according to the manufacturer's technical specifications, of accepting additional boards which would permit an increase above the embargo levels specified in 2B01, in the number of interpolating axes which can be coordinated simultaneously for "contouring control", even if they do not contain these additional boards;

Note: 2B01.a does not embargo "numerical control" units if:

a. Modified for and incorporated in unembargoed machines; or

b. Specially designed for unembargoed machines.

b. "Motion control boards" specially designed for machine tools and having any of the following characteristics:

1. Interpolation in more than four axes;

2. Capable of "real time processing" as described in 2B01.a.2.a; or

3. Capable of receiving and processing CAD data as described in 2B01.a.2.b;

c. Machine tools, as follows, for removing or cutting metals, ceramics or composites, which, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous "contouring control" in two or more axes:

1. Machine tools for turning, grinding, milling or any combination thereof which:

Technical Note: The c-axis on jig grinders used to maintain grinding wheels normal to the work surface is not considered a contouring rotary axis.

a. Have two or more axes which can be coordinated simultaneously for "contouring control"; and

b. Have any of the following characteristics:

1. Two or more contouring rotary axes;

2. One or more contouring "tilting spindles";

Note: 2B01.c.1.b.2 applies to machine tools for grinding or milling only.

3. "Camming" (axial displacement) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

Note: 2B01.c.1.b.3 applies to machine tools for turning only.

4. "Run out" (out-of-true running) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

5. The "positioning accuracies", with all compensations available, are less (better) than:

a. 0.001° on any rotary axis; or

b. 1. 0.004 mm along any linear axis (overall positioning) for grinding machines;

2. 0.006 mm along any linear axis (overall positioning) for turning or milling machines; or

Note: 2B01.c.1.b.5 does not embargo milling or turning machine tools with a positioning accuracy along one axis, with all compensations available, equal to or greater (worse) than 0.005 mm.

6. a. A "positioning accuracy" less (better) than 0.007 mm; and

b. A slide motion from rest for all slides within 20% of a motion command input for inputs of less than 0.5 micrometre;

Technical Note: Minimum increment of motion test (slide motion from rest): The test is conducted only if the machine tool is equipped with a control unit the minimum increment of which is less (better) than 0.5 micrometre. Prepare the machine for testing in accordance with ISO 230.2 paragraphs 3.1, 3.2, 3.3. Conduct the test on each axis (slide) of the machine tool as follows:

1. Move the axis over at least 50% of the maximum travel in plus and minus directions twice at maximum feed rate, rapid traverse rate or jog control;

2. Wait at least 10 seconds;

3. With manual data input, input the minimum programmable increment of the control unit;

4. Measure the axis movement;

5. Clear the control unit with the servo null, reset or whatever clears any signal (voltage) in the servo loop;

6. Repeat steps 2 to 5 five times, twice in the same direction of the axis travel and three times in the opposite direction of travel for a total of six test points;

7. If the axis movement is between 80% and 120% of the minimum programmable input for four of the six test points, the machine is embargoed. For rotary axes, the measurement is taken 200 mm from the centre of rotation.

Note 1: 2B01.c.1 does not embargo cylindrical external, internal, and external-internal grinding machines having all of the following characteristics:

a. Not centreless (shoe-type) grinding machines;

b. Limited to cylindrical grinding;

c. A maximum workpiece outside diameter or length of 150 mm;

d. Only two axes which can be coordinated simultaneously for "contouring control"; and

e. No contouring c axis.

Note 2: 2B01.c.1 does not embargo machines designed specifically as jig grinders having both of the following characteristics:

a. Axes limited to x, y, c and a, where the c-axis is used to maintain the grinding wheel normal to the work surface and the a-axis is configured to grind barrel cams; and

b. A spindle "run out" not less (not better) than 0.0006 mm.

Note 3: 2B01.c.1 does not embargo tool or cutter grinding machines having all of the following characteristics:

a. Shipped as a complete system with "software" specially designed for the production of tools or cutters;

b. No more than two rotary axes which can be coordinated simultaneously for "contouring control";

c. "Run out" (out-of-true running) in one revolution of the spindle not less (not better) than 0.0006 mm total indicator reading (TIR); and

d. The "positioning accuracies", with all compensations available, are not less (not better) than:

1. 0.004 mm along any linear axis for overall positioning; or

2. 0.001° on any rotary axis.

Note 4: The Committee will favourably consider the export of turning machines embargoed by 2B01.c.1 provided:

a. They are not intended for use in nuclear related activities; and

b. They have all of the following characteristics:

1. Only two axes which can be coordinated simultaneously for "contouring control";

2. The "positioning accuracy", with all compensations available, is not less (not better) than 0.002 mm per 300 mm of travel;

3. Geometric alignment of the axes, parallel or perpendicular to each other, is not less (not better) than 0.001 mm per 300 mm of travel;

4. Slide travel in both axes is not longer than 400 mm;

5. "Run out" (out-of-true running) in one revolution of the spindle is more (worse) than 0.0004 mm total indicator reading (TIR); and

6. "Camming" (axial displacement) in one revolution of the spindle is more (worse) than 0.0004 mm total indicator reading (TIR).

The Committee will approve the export of equipment described in this Note if no member country has filed an objection within four weeks of the receipt of complete information on the case.

Note 5: Governments may permit as administrative exceptions, the shipment to the People's Republic of China of machine tools for milling embargoed by 2B01.c.1 to civil end-users other than nuclear and aerospace, provided they are not embargoed by 2B01.c.1.b.1, b.4, b.5, or b.6.

2. Electrical discharge machines (EDM) of the wire feed type which have five or more axes which can be coordinated simultaneously for "contouring control";

3. Electrical discharge machines (EDM) of the non-wire type which have two or more rotary axes which can be coordinated simultaneously for "contouring control";

4. Machine tools for removing metals, ceramics or composites:

a. By means of:

1. Water or other liquid jets, including those employing abrasive additives;

2. Electron beam; or

3. "Laser" beam; and

b. Having two or more rotary axes which:

1. Can be coordinated simultaneously for "contouring control"; and

2. Have a "positioning accuracy" of less (better) than 0.003°;

2B02 Non-"numerically controlled" machine tools for generating optical quality surfaces.

a. Turning machines using a single point cutting tool and having all of the following characteristics:

1. Slide "positioning accuracy" less (better) than 0.0005 mm per 300 mm of travel;

2. Bidirectional slide positioning "repeatability" less (better) than 0.00025 mm per 300 mm of travel;

3. Spindle "run out" and "camming" less (better) than 0.0004 mm total indicator reading (TIR);

4. Angular deviation of the slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, total indicator reading (TIR), over full travel; and

5. Slide perpendicularity less (better) than 0.001 mm per 300 mm of travel;

Technical Note: The bidirectional slide positioning "repeatability" R of an axis is the maximum value of the repeatability of positioning at any position along or around the axis determined using the procedure and under the conditions specified in part 2.11 of ISO 230-2: 1988.

b. Fly cutting machines having both of the following characteristics:

1. Spindle "run out" and "camming" less (better) than 0.0004 mm total indicator reading (TIR); and

2. Angular deviation of slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, total indicator reading (TIR), over full travel;

2B03 "Numerically controlled" or manual machine tools specially designed for cutting, finishing, grinding or honing either of the following classes of bevel or parallel axis hardened (R_c=40 or more) gears, and specially designed components, controls and accessories therefor.

a. Hardened bevel gears finished to a quality of better than AGMA 13 (equivalent to ISO 1328 class 4); or

b. Hardened spur, helical and double-helical gears with a pitch diameter exceeding 1,250 mm and a face width of 15% of pitch diameter or larger finished to a quality of AGMA 14 or better (equivalent to ISO 1328 class 3);

2B04 Hot "isostatic presses", as follows, and specially designed dies, moulds, components, accessories and controls therefor.

a. Having a controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 406 mm or more; and

b. Having:

1. A maximum working pressure exceeding 207 MPa;

2. A controlled thermal environment exceeding 1,773 K (1,500 °C); *or*

3. A facility for hydrocarbon impregnation and removal of resultant gaseous degradation products;

Technical Note: The inside chamber dimension is that of the chamber in which both the working temperature and the working pressure are achieved and does not include fixtures. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other.

2B05 Equipment specially designed for the deposition, processing and in-process control of inorganic overlays, coatings and surface modifications, as follows, for non-electronic substrates, by processes shown in the Table and associated Notes following 2E03.d and specially designed automated handling, positioning, manipulation and control components therefor.

a. "Stored programme controlled" chemical vapour deposition (CVD) production equipment with both of the following:

1. Process modified for one of the following:

a. Pulsating CVD;

b. Controlled nucleation thermal decomposition (CNTD); or

c. Plasma enhanced or plasma assisted CVD; and

2. Either of the following:

a. Incorporating high vacuum (equal to or less than 0.01 Pa) rotating seals; or

b. Incorporating *in situ* coating thickness control;

b. "Stored programme controlled" ion implantation production equipment having beam currents of 5 mA or more;

c. "Stored programme controlled" electron beam physical vapour deposition (EB–PVD) production equipment incorporating:

1. Power systems rated for over 80 kW;

2. A liquid pool level "laser" control system which regulates precisely the ingots feed rate; and

3. A computer controlled rate monitor operating on the principle of photo-luminescence of the ionised atoms in the evaporant stream to control the deposition rate of a coating containing two or more elements;

d. "Stored programme controlled" plasma spraying production equipment having either of the following characteristics:

1. Operating at reduced pressure controlled atmosphere (equal to or less than 10 kPa measured above and within 300 mm of the gun nozzle exit) in a vacuum chamber capable of evacuation down to 0.01 Pa prior to the spraying process; or

2. Incorporating *in situ* coating thickness control;

e. "Stored programme controlled" sputter deposition production equipment capable of current densities of 0.1 nA/mm ^{2} or higher at a deposition rate of 15 micrometre/hr or more;

f. "Stored programme controlled" cathodic arc deposition production equipment incorporating a grid of electromagnets for steering control of the arc spot on the cathode;

g. "Stored programme controlled" ion plating production equipment allowing for the *in situ* measurement of either:

1. Coating thickness on the substrate and rate control; or

2. Optical characteristics;

Note: 2B05.g does not embargo standard ion plating coating equipment for cutting or machining tools.

2B06 Dimensional inspection or measuring systems or equipment.

a. Computer controlled, "numerically controlled" or "stored programme controlled" dimensional inspection machines, having both of the following characteristics:

1. Two or more axes; and

2. A one dimensional length "measurement uncertainty" equal to or less (better) than (1.25+L/1,000) micrometre tested with a probe with an "accuracy" of less (better) than 0.2 micrometre (L is the measured length in mm);

b. Linear and angular displacement measuring instruments, as follows:

1. Linear measuring instruments having any of the following characteristics:

a. Non-contact type measuring systems with a "resolution" equal to or less (better) than 0.2 micrometre within a measuring range up to 0.2 mm;

b. Linear voltage differential transformer systems with both of the following characteristics:

1. "Linearity" equal to or less (better) than 0.1% within a measuring range up to 5 mm; and

2. Drift equal to or less (better) than 0.1% per day at a standard ambient test room temperature ±1 K; or

c. Measuring systems having both of the following characteristics:

1. Containing a "laser"; and

2. Maintaining, for at least 12 hours, over a temperature range of ±1 K around a standard temperature and at a standard pressure:

a. A "resolution" over their full scale of 0.1 micrometre or less (better); and

b. A "measurement uncertainty" equal to or less (better) than (0.2+L/2,000) micrometre (L is the measured length in mm);

2. Angular measuring instruments having an "angular position deviation" equal to or less (better) than 0.00025°;

Note: 2B06.b.2 does not embargo optical instruments, such as autocollimators, using collimated light to detect angular displacement of a mirror.

c. Systems for simultaneous linear-angular inspection of hemishells, having both of the following characteristics:

1. "Measurement uncertainty" along any linear axis equal to or less (better) than 3.5 micrometre per 5 mm; and

2. "Angular position deviation" equal to or less (better) than 0.02°;

d. Equipment for measuring surface irregularities, by measuring optical scatter as a function of angle, with a sensitivity of 0.5 nm or less (better);

Technical Notes: 1. Machine tools which can be used as measuring machines are embargoed if they meet or exceed the criteria specified for the machine tool function or the measuring machine function.

2. A machine described in 2B06 is embargoed if it exceeds the embargo threshold anywhere within its operating range.

3. The probe used in determining the "measurement uncertainty" of a dimensional

inspection system shall be as described in VDI/VDE 2617 Parts 2, 3, and 4.

4. All measurement values in 2B06 represent permissible positive and negative deviations from the target value, i.e., not total band.

Note: Governments may permit, as administrative exceptions, the shipment of equipment embargoed by 2B06.b.1 above to civil end-users not engaged in aerospace or nuclear activities.

2B07 "Robots", and specially designed controllers and "end-effectors" therefor.

a. Capable in real time of full three-dimensional image processing or full three-dimensional scene analysis to generate or modify "programmes" or to generate or modify numerical programme data;

Note: The scene analysis limitation does not include approximation of the third dimension by viewing at a given angle, or limited grey scale interpretation for the perception of depth or texture for the approved tasks (2½ D).

b. Specially designed to comply with national safety standards applicable to explosive munitions environments; or

c. Specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation;

2B08 Assemblies, units or inserts specially designed for machine tools, or for equipment embargoed by 2B06 or 2B07.

a. Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with radial ("run out") or axial ("camming") axis motion in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

b. Linear position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having an overall "accuracy" less (better) than $(800+(600xLx10-^{3}))$nm (L equals the effective length in mm);

c. Rotary position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having an "accuracy" less (better) than 0.00025^{0};

d. Slide way assemblies consisting of a minimal assembly of ways, bed and slide having all of the following characteristics:

1. A yaw, pitch or roll of less (better) than 2 seconds of arc total indicator reading (reference: ISO/DIS 230-1) over full travel;

2. A horizontal straightness of less (better) than 2 micrometre per 300 mm length; and

3. A vertical straightness of less (better) than 2 micrometre per 300 mm length;

e. Single point diamond cutting tool inserts, having all of the following characteristics:

1. Flawless and chip-free cutting edge when magnified 400 times in any direction;

2. Cutting radius from 0.1 to 5 mm inclusive; and

3. Cutting radius out-of-roundness less (better) than 0.002 mm total indicator reading (TIR);

2B09 Specially designed printed circuit boards with mounted components and software therefor, or "compound rotary tables" capable of upgrading, according to the manufacturar's specifications, "numerical control" units, machine tools or feed-back devices to or above the levels specified in 2B.

Note: 2B does not embargo measuring interferometer systems, without closed or open loop feedback, containing a "laser" to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.

D. Software

2D01 "Software" specially designed or modified for the "development", "production" or "use" of equipment embargoed by 2A or 2B.

2D02 Specific "software".

a. "Software" to provide "adaptive control" and having both of the following characteristics:

1. For "flexible manufacturing units" (FMUs) which consist at least of equipment described in b.1. and b.2. of the definition of "flexible manufacturing unit"; and

2. Capable of generating or modifying, in "real time processing", programmes or data by using the signals obtained simultaneously by means of at least two detection techniques, such as:

a. Machine vision (optical ranging);

b. Infrared imaging;

c. Acoustical imaging (acoustical ranging);

d. Tactile measurement;

e. Inertial positioning;

f. Force measurement;

g. Torque measurement;

Note: 2D02.a does not embargo "software" which only provides rescheduling of functionally identical equipment within "flexible manufacturing units" using pre-stored part programmes and a pre-stored strategy for the distribution of the part programmes.

b. "Software" for electronic devices other than those described in 2B01.a or b, which provides the "numerical control" capability of the equipment embargoed by 2B01;

E. Technology

2E01 Technology according to the General Technology Note for the "development" of equipment or "software" embargoed by 2A, 2B, or 2D.

2E02 Technology according to the General Technology Note for the "production" of equipment embargoed by 2A or 2B.

2E03 Other technology

a. Technology:

1. For the "development" of interactive graphics as an integrated part in "numerical control" units for preparation or modification of part programmes;

2. For the "development" of generators of machine tool instructions (e.g., part programmes) from design data residing inside "numerical control" units;

3. For the "development" of integration "software" for incorporation of expert systems for advanced decision support of shop floor operations into "numerical control" units;

b. Technology for metal-working manufacturing processes, as follows:

1. Technology for the design of tools, dies or fixtures specially designed for the following processes:

a. "Superplastic forming";

b. "Diffusion bonding";

c. "Direct-acting hydraulic pressing";

2. Technical data consisting of process methods or parameters as listed below used to control:

a. "Superplastic forming" of aluminium alloys, titanium alloys or "superalloys":

1. Surface preparation;

2. Strain rate;

3. Temperature;

4. Pressure;

b. "Diffusion bonding" of "superalloys" or titanium alloys:

1. Surface preparation;

2. Temperature;

3. Pressure;

c. "Direct-acting hydraulic pressing" of aluminium alloys or titanium alloys:

1. Pressure;

2. Cycle time;

d. "Hot isostatic densification" of titanium alloys, aluminium alloys or "superalloys":

1. Temperature;

2. Pressure;

3. Cycle time;

c. Technology for the "development" or "production" of hydraulic stretch-forming machines and dies therefor, for the manufacture of airframe structures;

d. Technology for:

—The application of inorganic overlay coatings or inorganic surface

modification coatings, specified in column 3 of the following Table;

—To non-electronic substrates, specified in column 2 of the following Table;

—By processes specified in column 1 of the following Table and defined in the Technical Note;

CATEGORY 2B.—MATERIALS PROCESSING TABLE DEPOSITION TECHNIQUES

1. Coating process (1)	2. Substrate	3. Resultant coating
A. Chemical Vapor Deposition (CVD)	"Superalloys"	Aluminides for internal passages.
	Ceramics and Low-expansion glasses (14)	Silicides, Carbides, Dielectric layers (15).
	Carbon-carbon, Ceramic, and Metal matrix composites.	Silicides, Carbides, Refractory metals, Mixtures thereof (4), Aluminides, Alloyed aluminides (2).
	Cemented tungsten carbide (17), Silicon carbide	Carbides, Tungsten, Mixtures thereof (4), Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
B. Thermal-Evaporation Physical Vapor:		
1. Physical Vapor Deposition (PVD): Electron-Beam.	"Superalloys"	Alloyed silicides, Alloyed aluminides (2), MCrAlX (5), Modified zirconia (12), Silicides, Aluminides, Mixtures thereof (4).
	Ceramics and Low-expansion glasses (14)	Dielectric layers (15).
	Corrosion resistant steel (7)	MCrAlX (5), Modified zirconia (12), Mixtures thereof (4).
	Carbon-carbon, Ceramic and Metal matrix composites	Silicides, Carbides, Refractory metals, Mixtures thereof (4), Dielectric layers (15).
	Cemented tungsten carbide (17), Silicon carbide	Carbides, Tungsten, Mixtures thereof (4), Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15), Borides.
	Sensor window materials (9)	Dielectric layers (15).
	Titanium alloys (13)	Borides, Nitrides.
2. Ion assisted resistive heating Physical Vapor Deposition (Ion Plating) (see Technical Note (c)).	Ceramics and Low-expansion glasses (14)	Dielectric layers (15).
	Carbon-carbon Ceramic and Metal matrix composites	Dielectric layers (15).
	Cemented tungsten carbide (17), Silicon carbide	Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
3. Physical Vapor Deposition: "laser" evaporation	Ceramics and Low-expansion glasses (14)	Silicides, Dielectric layers (15).
	Carbon-carbon, Ceramic and Metal matrix composites	Dielectric layers (15).
	Cemented tungsten carbide (17), Silicon carbide	Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15), Diamond-like carbon.
4. Physical Vapor Deposition: cathodic arc discharge.	"Superalloys"	Alloyed silicides, Alloyed aluminides (2), MCrAlX (5).
	Polymers (11) and Organic matrix composites	Borides, Carbides, Nitrides.
C. Pack cementation (see A above for out-of-pack cementation) (10).	Carbon-carbon, Ceramic and Metal matrix	Silicides, Carbides, Mixtures thereof (4).
	Titanium alloys (13)	Silicides, Aluminides, Alloyed aluminides (2).
	Refractory metals and alloys (8)	Silicides, Oxides.
D. Plasma spraying		MCrAlX (5), Modified zirconia (12), Mixtures thereof (4), Abradable Nickel-Graphite, Abradable Ni-Cr-Al-Bentonite, Abradable Al-Si-Polyester, Alloyed aluminides (2).
	Aluminum alloys (6)	MCrAlX (5), Modified zirconia (12), Silicides, Mixtures thereof (4).
	Refractory metals and alloys (8)	Aluminides, Silicides, Carbides.
	Corrosion resistant steel (7)	MCrAlX (5), Modified zirconia (12), Mixtures thereof (4).
	Titanium alloys (13)	Carbides, Aluminides, Silicides, Alloyed aluminides (2), Abradable Nickel-Graphite, Abradable Ni-Cr-Al-Bentonite, Abradable Al-Si-Polyester.
E. Slurry Deposition	Refractory metals and alloys (8)	Fused silicides, Fused aluminides, except for resistance heating elements.
	Carbon-carbon, Ceramic and Metal matrix composites	Silicides, Carbides, Mixtures thereof (4).
F. Sputter Deposition	"Superalloys"	Alloyed silicides, Alloyed aluminides (2), Noble metal modified aluminides (3), MCrAlX (5), Modified zirconia (12), Platinum, Mixtures thereof (4).
	Ceramics and Low-expansion glasses (14)	Silicides, Platinum, Mixtures thereof (4), Dielectric layers (15).
	Titanium alloys (13)	Borides, Nitrides, Oxides, Silicides, Aluminides, Alloyed aluminides (2), Carbides.
	Carbon-carbon, Ceramic and Metal matrix composites	Silicides, Carbides, Refractory metals, Mixtures thereof (4), Dielectric layers (15).
	Cemented tungsten carbide (17), Silicon carbide	Carbides, Tungsten, Mixtures thereof (4), Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Borides, Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
	Refractory metals and alloys (8)	Aluminides, Silicides.

CATEGORY 2B.—MATERIALS PROCESSING TABLE DEPOSITION TECHNIQUES—Continued

1. Coating process (1)	2. Substrate	3. Resultant coating
G. Ion Implantation	High temperature bearing steels	Additions of Chromium, Tantalum, or Niobium (Columbium).
	Titanium alloys (13)	Borides, Nitrides.
	Beryllium and Beryllium alloys	Borides.
	Cemented tungsten carbide (17)	Carbides, Nitrides.

Notes: 1. Coating process includes coating repair and refurbishing as well as original coating.

2. The term "alloyed aluminide" coating includes single or multiple-step coatings in which an element or elements are deposited prior to or during application of the aluminide coating, even if these elements are deposited by another coating process. It does not, however, include the multiple use of single-step pack cementation processes to achieve alloyed aluminides.

3. The term "noble metal modified aluminide" coating includes multiple-step coatings in which the noble metal or noble metals are laid down by some other coating process prior to application of the aluminide coating.

4. Mixtures consist of infiltrated material, graded compositions, co-deposits and multilayer deposits and are obtained by one or more of the coating processes specified in the Table.

5. MCrAlX refers to a coating alloy where M equals cobalt, iron, nickel or combinations thereof and X equals hafnium, yttrium, silicon, tantalum in any amount or other intentional additions over 0.01 weight percent in various proportions and combinations, except:

a. CoCrAlY coatings which contain less than 22 weight percent of chromium, less than 7 weight percent of aluminium and less than 2 weight percent of yttrium;

b. CoCrAlY coatings which contain 22 to 24 weight percent of chromium, 10 to 12 weight percent of aluminium and 0.5 to 0.7 weight percent of yttrium; or

c. NiCrAlY coatings which contain 21 to 23 weight percent of chromium, 10 to 12 weight percent of aluminium and 0.9 to 1.1 weight percent of yttrium.

6. Aluminium alloys refers to alloys having an ultimate tensile strength of 190 MPa or more measured at 293 K (20 °C).

7. Corrosion resistant steel refers to AISI (American Iron and Steel Institute) 300 series or equivalent national standard steels.

8. Refractory metals consist of the following metals and their alloys: niobium (columbium), molybdenum, tungsten and tantalum.

9. Sensor window materials, as follows: alumina, silicon, germanium, zinc sulphide, zinc selenide, gallium arsenide and the following metal halides: potassium iodide, potassium fluoride, or sensor window materials of more than 40 mm diameter for thallium bromide and thallium chlorobromide.

10. Technology for single-step pack cementation of solid airfoils is not embargoed by this Category.

11. Polymers, as follows: polyimide, polyester, polysulfide, polycarbonates and polyurethanes.

12. Modified zirconia refers to additions of other metal oxides, e.g., calcia, magnesia, yttria, hafnia, rare earth oxides, etc., to zirconia in order to stabilise certain crystallographic phases and phase compositions. Thermal barrier coatings made of zirconia, modified with calcia or magnesia by mixing or fusion, are not embargoed.

13. Titanium alloys refers to aerospace alloys having an ultimate tensile strength of 900 MPa or more measured at 293 K (20 °C).

14. Low-expansion glasses refers to glasses which have a coefficient of thermal expansion of $1\times10^{-7}\,K^{-1}$ or less measured at 293 K (20 °C).

15. Dielectric layers are coatings constructed of multi-layers of insulator materials in which the interference properties of a design composed of materials of various refractive indices are used to reflect, transmit or absorb various wavelength bands. Dielectric layers refers to more than four dielectric layers or dielectric/metal composite layers.

16. Cemented tungsten carbide does not include cutting and forming tool materials consisting of tungsten carbide/(cobalt, nickel), titanium carbide/(cobalt, nickel), chromium carbide/nickel-chromium and chromium carbide/nickel.

Technical Note: Processes specified in Column 1 of the Table are defined as follows:

a. *Chemical Vapour Deposition (CVD)* is an overlay coating or surface modification coating process wherein a metal, alloy, composite, dielectric or ceramic is deposited upon a heated substrate. Gaseous reactants are decomposed or combined in the vicinity of a substrate resulting in the deposition of the desired elemental, alloy or compound material on the substrate. Energy for this decomposition or chemical reaction process may be provided by the heat of the substrate, a glow discharge plasma, or "laser" irradiation.

N.B.: 1. CVD includes the following processes: directed gas flow out-of-pack deposition, pulsating CVD, controlled nucleation thermal decomposition (CNTD), plasma enhanced or plasma assisted CVD processes.

2. Pack denotes a substrate immersed in a powder mixture.

3. The gaseous reactants utilized in the out-of-pack process are produced using the same basic reactions and parameters as the pack cementation process, except that the substrate to be coated is not in contact with the powder mixture.

b. *Thermal Evaporation-Physical Vapour Deposition (TE-PVD)* is an overlay coating process conducted in a vacuum with a pressure less than 0.1 Pa wherein a source of thermal energy is used to vaporize the coating material. This process results in the condensation, or deposition, of the evaporated species onto appropriately positioned substrates. The addition of gases to the vacuum chamber during the coating process to synthesize compound coatings is an ordinary modification of the process. The use of ion or electron beams, or plasma, to activate or assist the coating's deposition is also a common modification in this technique. The use of monitors to provide in-process measurement of optical characteristics and thickness of coatings can be a feature of these processes. Specific TE-PVD processes are as follows:

1. Electron Beam PVD uses an electron beam to heat and evaporate the material which forms the coating;

2. Resistive Heating PVD employs electrically resistive heating sources capable of producing a controlled and uniform flux of evaporated coating species;

3. "Laser" Evaporation uses either pulsed or continuous wave "laser" beams to heat the material which forms the coating;

4. Cathodic Arc Deposition employs a consumable cathode of the material which forms the coating and has an arc discharge established on the surface by a momentary contact of a ground trigger. Controlled motion of arcing erodes the cathode surface creating a highly ionized plasma. The anode can be either a cone attached to the periphery of the cathode, through an insulator, or the chamber. Substrate biasing is used for non line-of-sight deposition.

N.B.: This definition does not include random cathodic arc deposition with non-biased substrates.

c. *Ion Plating* is a special modification of a general TE-PVD process in which a plasma or an ion source is used to ionize the species to be deposited, and a negative bias is applied to the substrate in order to facilitate the extraction of the species to be deposited from the plasma. The introduction of reactive species, evaporation of solids within the process chamber, and the use of monitors to provide in-process measurement of optical characteristics and thicknesses of coatings are ordinary modifications of the process.

d. *Pack Cementation* is a surface modification coating or overlay coating process wherein a substrate is immersed in a powder mixture (a pack), that consists of:

1. The metallic powders that are to be deposited (usually aluminium, chromium, silicon or combinations thereof);

2. An activator (normally a halide salt); *and*

3. An inert powder, most frequently alumina.

The substrate and powder mixture is contained within a retort which is heated to between 1,030 K (757 °C) to 1,375 K (1,102 °C) for sufficient time to deposit the coating.

e. *Plasma Spraying* is an overlay coating process wherein a gun (spray torch) which produces and controls a plasma accepts powder or wire coating materials, melts them and propels them towards a substrate, whereon an integrally bonded coating is formed. Plasma spraying constitutes either low pressure plasma spraying or high velocity plasma spraying carried out underwater.

N.B.: 1. Low pressure means less than ambient atmospheric pressure.

2. High velocity refers to nozzle-exit gas velocity exceeding 750 m/s calculated at 293 K (20 °C) at 0.1 MPa.

f. *Slurry Deposition* is a surface modification coating or overlay coating process wherein a metallic or ceramic powder with an organic binder is suspended in a liquid and is applied to a substrate by either spraying, dipping or painting, subsequent air or oven drying, and heat treatment to obtain the desired coating.

g. *Sputter Deposition* is an overlay coating process based on a momentum transfer phenomenon, wherein positive ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on an appropriately positioned substrate.

N.B: 1. The Table refers only to triode, magnetron or reactive sputter deposition which is used to increase adhesion of the coating and rate of deposition and to radio frequency (RF) augmented sputter deposition used to permit vapourisation of non-metallic coating materials.

2. Low-energy ion beams (less than 5 keV) can be used to activate the deposition.

h. *Ion Implantation* is a surface modification coating process in which the element to be alloyed is ionized, accelerated through a potential gradient and implanted into the surface region of the substrate. This includes processes in which ion implantation is performed simultaneously with electron beam physical vapour deposition or sputter deposition.

Accompanying Technical Information:

Deposition Techniques

1. Technology for pretreatments of the substrates listed in the Table, as follows:

a. Chemical stripping and cleaning bath cycle parameters, as follows:

1. Bath composition

a. For the removal of old or defective coatings, corrosion product or foreign deposits;

b. For preparation of virgin substrates;

2. Time in bath;

3. Temperature of bath;

4. Number and sequences of wash cycles;

b. Visual and macroscopic criteria for acceptance of the cleaned part;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Temperature for heat treatment;

3. Time of heat treatment;

d. Substrate surface preparation parameters, as follows:

1. Grit blasting parameters, as follows:

a. Grit composition;

b. Grit size and shape;

c. Grit velocity;

2. Time and sequence of cleaning cycle after grit blast;

3. Surface finish parameters;

e. Masking technique parameters, as follows:

1. Material of mask;

2. Location of mask;

2. Technology for *in situ* quality assurance techniques for evaluation of the coating processes listed in the Table, as follows:

a. Atmosphere parameters, as follows:

1. Composition of the atmosphere;

2. Pressure of the atmosphere;

b. Time parameters;

c. Temperature parameters;

d. Thickness parameters;

e. Index of refraction parameters;

3. Technology for post deposition treatments of the coated substrates listed in the Table, as follows:

a. Shot peening parameters, as follows:

1. Shot composition;

2. Shot size;

3. Shot velocity;

b. Post shot peening cleaning parameters;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Time-temperature cycles;

d. Post heat treatment visual and macroscopic criteria for acceptance of the coated substrates;

4. Technology for quality assurance techniques for the evaluation of the coated substrates listed in the Table, as follows:

a. Statistical sampling criteria;

b. Microscopic criteria for:

1. Magnification;

2. Coating thickness uniformity;

3. Coating integrity;

4. Coating composition;

5. Coating and substrates bonding;

6. Microstructural uniformity.

c. Criteria for optical properties assessment:

1. Reflectance;

2. Transmission;

3. Absorption;

4. Scatter;

5. Technology and parameters related to specific coating and surface modification processes listed in the Table, as follows:

a. For Chemical Vapour Deposition:

1. Coating source composition and formulation;

2. Carrier gas composition;

3. Substrate temperature;

4. Time-temperature-pressure cycles;

5. Gas control and part manipulation;

b. For Thermal Evaporation—Physical Vapour Deposition:

1. Ingot or coating material source composition;

2. Substrate temperature;

3. Reactive gas composition;

4. Ingot feed rate or material vapourisation rate;

5. Time-temperature-pressure cycles;

6. Beam and part manipulation;

7. "Laser" parameters, as follows:

a. Wave length;

b. Power density;

c. Pulse length;

d. Repetition ratio;

e. Source;

f. Substrate orientation;

c. For Pack Cementation:

1. Pack composition and formulation;

2. Carrier gas composition;

3. Time-temperature-pressure cycles;

d. For Plasma Spraying:

1. Powder composition, preparation and size distributions;

2. Feed gas composition and parameters;

3. Substrate temperature;

4. Gun powder parameters;

5. Spray distance;

6. Spray angle;

7. Cover gas composition, pressure and flow rates;

8. Gun control and part manipulation;

e. For Sputter Deposition:

1. Target composition and fabrication;

2. Geometrical positioning of part and target;

3. Reactive gas composition;

4. Electrical bias;

5. Time-temperature-pressure cycles;

6. Triode power;

7. Part manipulation;

f. For Ion Implantation:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles.

g. For Ion Plating:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles;

5. Coating material feed rate and vapourisation rate;

6. Substrate temperature;

7. Substrate bias parameters.

Category 3—Electronics Design, Development and Production

A. Equipment, Assemblies and Components

Notes: 1. The embargo status of equipment, devices and components described in 3A, other than those described in 3A01.a.3 to 10, which are specially designed or which have the same functional characteristics as other equipment is determined by the embargo status of the other equipment.

2. The embargo status of integrated circuits described in 3A01.a.3 to 9 which are unalterably programmed or designed for a specific function is determined by the embargo status of the other equipment.

N.B.: When the manufacturer or applicant cannot determine the embargo status of the other equipment, the embargo status of the integrated circuits is determined in 3A01.a.3 to 9.

3A01 Electronic devices and components.

a. General purpose integrated circuits, as follows:

Notes: 1. The embargo status of wafers (finished or unfinished), in which the function has been determined, is to be evaluated against the parameters of 3A01.a.

2. Integrated circuits include the following types:

"Monolithic integrated circuits";

"Hybrid integrated circuits";

"Multichip integrated circuits";

"Film type integrated circuits", including silicon-on-sapphire integrated circuits;

"Optical integrated circuits".

1. Integrated circuits, designed or rated as radiation hardened to withstand a total dose of 5×10^5 rad (Si), or higher;

(For integrated circuits designed or rated against neutron or transient ionizing radiation, see the ITAR.)

2. Integrated circuits described in 3A01.a.3 to 10, rated for operation at an ambient temperature below 219 K (−54 °C) or above 398 K (+125 °C);

Note: The temperature limits in 3A01.a.2 do not apply to integrated circuits for civil automobiles or railway engines.

3. "Microprocessor microcircuits", "microcomputer microcircuits" and microcontroller microcircuits, having any of the following:

Notes: 1. 3A01.a.3 does not embargo silicon-based "microcomputer microcircuits" or microcontroller microcircuits having an operand (data) word length of 8 bit or less and not covered by Note 2 of Category 3A.

2. 3A01.a.e includes digital signal processors, digital array processors and digital coprocessors.

a. An external data bus width exceeding 32 bit or an arithmetic logic unit with an access width exceeding 32 bit;

b. A clock frequency exceeding 40 MHz;

c. An external data bus width of 32 bits or more and capable of executing 12.5 million instructions per second (MIPS) or more; or

d. More than one data or instruction bus or serial communication port for external interconnection in a parallel processor with a transfer rate exceeding 2.4 Mbytes/s;

Technical Note: If MIPS are not specified, the inverse of the average instruction cycle time (in microseconds) should be used.

4. Storage integrated circuits, as follows:

a. Electrical erasable programmable read-only memories (EEPROMs) with a storage capacity:

1. Exceeding 1 Mbit per package; or

2. Exceeding 256 kbit per package and a maximum access time of less than 80 ns;

b. Static random-access memories (SRAMs) with a storage capacity:

1. Exceeding 1 Mbit per package; or

2. Exceeding 256 kbit per package and a maximum access time of less than 25 ns;

c. Storage integrated circuits manufactured from a compound semiconductor;

5. Converter integrated circuits, as follows:

a. Analogue-to-digital converters having any of the following:

1. A resolution of 8 bits or more, but less than 12 bits, with a total conversion time to maximum resolution of less than 10 ns;

2. A resolution of 12 bits with a total conversion time to maximum resolution of less than 200 ns; or

3. A resolution of more than 12 bits with a total conversion time to maximum resolution of less than 2 microseconds;

b. Digital-to-analogue converters with a resolution of 12 bits or more, and a "settling time" of less than 10 ns;

6. Electro-optical or "optical integrated circuits" for "signal processing" having all of the following:

a. One or more internal "laser" diodes;

b. One or more internal light detecting elements; and

c. Optical waveguides;

7. Field programmable gate arrays having either of the following:

a. An equivalent gate count of more than 30,000 (2 input gates); or

b. A typical "basic gate propagation delay time" of less than 0.4 ns;

8. Field programmable logic arrays having either of the following:

a. An equivalent gate count of more than 5,000 (2 input gates); or

b. A toggle frequency exceeding 100 MHz;

9. Neural network integrated circuits;

10. Custom integrated circuits for which either the function is unknown, or the embargo status of the end-use equipment is unknown to the manufacturer, having any of the following:

a. More than 144 terminals;

b. A typical "basic gate propagation delay time" of less than 0.4 ns; or

c. An operating frequency exceeding 3 GHz;

11. Digital integrated circuits, other than those described in 3A01.a.3 to 10, based upon any compound semiconductor and having either of the following:

a. An equivalent gate count of more than 300 (2 input gates); or

b. A toggle frequency exceeding 1.2 GHz;

b. Microwave or millimetre wave devices:

1. Electronic vacuum tubes and cathodes, as follows:

Note: 3A01.b.1 does not embargo tubes designed or rated to operate in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

a. Travelling wave tubes, pulsed or continuous wave, as follows:

1. Operating at frequencies higher than 31 GHz;

2. Having a cathode heater element with a turn on time to rated RF power of less than 3 seconds;

3. Coupled cavity tubes, or derivatives thereof;

4. Helix tubes, or derivatives thereof, with any of the following:

a. 1. An "instantaneous bandwidth" of half an octave or more; and

2. The product of the rated average ouput power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.2;

b. 1. An "instantaneous bandwidth" of less than half an octave; and

2. The product of the rated average ouput power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.4; or

c. "Space qualified";

b. Crossed-field amplifier tubes with a gain of more than 17 dB;

c. Impregnated cathodes for electronic tubes, with either of the following:

1. Having a turn on time to rated emission of less than 3 seconds; or

2. Producing a continuous emission current density at rated operating conditions exceeding 5 A/cm ^{2};

(For "frequency agile" tubes, see Item 11 on the ITAR.)

2. Microwave integrated circuits or modules containing "monolithic integrated circuits" operating at frequencies exceeding 3 GHz;

Note: 3A01.b.2 does not embargo circuits or modules for equipment operating solely in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

3. Microwave transistors rated for operation at frequencies exceeding 31 GHz;

4. Microwave solid state amplifiers:

a. Operating at frequencies exceeding 10.5 GHz and having an "instantaneous bandwidth" of more than half an octave; or

b. Operating at frequencies exceeding 31 GHz;

Note: 3A01.b.4 does not embargo amplifiers:

1. Specially designed for medical applications;

2. Specially designed for use in "simple educational devices"; or

3. Having an output power of no more than 10 W and specially designed for:

a. Industrial or civilian intrusion, detection and alarm systems;

b. Traffic or industrial movement control and counting systems; or

c. Systems for the detection of environmental pollution of air or water.

5. Electronically or magnetically tunable band-pass or band-stop filters having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (f_{max}/f_{min}) in less than 10 microseconds with:

a. A band-pass bandwidth of more than 0.5% of centre frequency; or

b. A band-stop bandwidth of less than 0.5% of centre frequency;

6. Microwave assemblies capable of operating at frequencies exceeding 31 GHz;

7. Flexible waveguides designed for use at frequencies exceeding 40 GHz;

c. Acoustic wave devices, as follows, and specially designed components therefor:

1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., "signal processing" devices employing elastic waves in materials), having either of the following:

a. A carrier frequency exceeding 1 GHz; or

b. A carrier frequency of 1 GHz or less, and:

1. A frequency side-lobe rejection exceeding 55 dB;

2. A product of the maximum delay time and the bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

3. A dispersive delay of more than 10 microseconds;

Note: 3A01.c.1 does not embargo devices specially designed for home electronics or entertainment.

2. Bulk (volume) acoustic wave devices (i.e., "signal processing" devices employing elastic waves) which permit direct processing of signals at frequencies exceeding 1 GHz;

3. Acoustic-optic "signal processing" devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves which permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

Note: 3A01.c.3 does not embargo devices specially designed for civil television, video or AM and FM broadcasting equipment.

d. Electronic devices or circuits containing components, manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of the "superconductive" constituents, with any of the following:

1. Electromagnetic amplification:

a. At frequencies equal to or less than 31 GHz with a noise figure of less than 0.5 dB; or

b. At frequencies exceeding 31 GHz;

2. Current switching for digital circuits using "superconductive" gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; *or*

3. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices, as follows:

1. Batteries, as follows:

Note: 3A01.e.1 does not embargo batteries with volumes equal to or less than 26 cm^3 (e.g., standard C-cells or UM-2 batteries).

a. Primary cells and batteries having an energy density exceeding 350 Wh/kg and rated for operation in the temperature range from below 243 K (−30 °C) to above 343 K (+70 °C);

b. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20 °C) to above 333 K (+60 °C);

Technical Note: Energy density is obtained by multiplying the average power in watts (average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75% of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

c. "Space qualified" and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m^2 at an operating temperature of 301 K (+28 °C) under a tungsten illumination of 1 kW/m^2 at 2,800 K (2,527 °C);

2. High energy storage capacitors, as follows:

a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) having all of the following:

1. A voltage rating equal to or more than 5 kV;

2. An energy density equal to or more than 250 J/kg; and

3. A total energy equal to or more than 25 kJ;

b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) having all of the following:

1. A voltage rating equal to or more than 5 kV;

2. An energy density equal to or more than 50 J/kg;

3. A total energy equal to or more than 100 J; and

4. A charge/discharge cycle life equal to or more than 10,000;

3. "Superconductive" electromagnets or solenoids specially designed to be fully charged or discharged in less than one minute, having all of the following:

Note: 3A01.e.3 does not embargo "superconductive" electromagnets or solenoids specially designed for Magnetic Resonance Imaging (MRI) medical equipment.

a. Maximum energy delivered during the discharge divided by the duration of the discharge of more than 500 kJ per minute;

b. Inner diameter of the current carrying windings of more than 250 mm; and

c. Rated for a magnetic induction of more than 8 T or "overall current density" in the winding of more than 300 A/mm^2;

4. Circuits or systems for electromagnetic energy storage, containing components manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents, having all of the following:

a. Resonant operating frequencies exceeding 1 MHz;

b. A stored energy density of 1 MJ/m^3, or more; and

c. A discharge time of less than 1 ms;

5. Flash discharge type X-ray systems, including tubes, having all of the following:

a. A peak power exceeding 500 MW;

b. An output voltage exceeding 500 kV; and

c. A pulse width of less than 0.2 microsecond;

f. Rotary input type shaft absolute position encoders having either of the following:

1. A resolution of better than 1 part in 265,000 (18 bit resolution) of full scale; or

2. An accuracy better than ±2.5 seconds of arc;

3A02 General purpose electronic equipment.

a. Recording equipment, as follows, and specially designed test tape therefor:

1. Analogue instrumentation magnetic tape recorders, including those permitting the recording of digital signals (e.g., using a high density digital recording (HDDR) module), having any of the following:

a. A bandwidth exceeding 4 MHz per electronic channel or track;

b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; or

c. A time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of less than ±0.1 microsecond;

2. Digital video magnetic tape recorders having a maximum digital interface transfer rate exceeding 180 Mbit/s, except those specially designed for television recording as standardized or recommended by the CCIR or the IEC for civil television applications;

3. Digital instrumentation magnetic tape data recorders having any of the following characteristics:

a. A maximum digital interface transfer rate exceeding 60 Mbit/s and employing helical scan techniques;

b. A maximum digital interface transfer rate exceeding 120 Mbit/s and employing fixed head techniques; or

c. "Space qualified";

Note: 3A02.a.3 does not embargo analogue magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

4. Equipment, with a maximum digital interface transfer rate exceeding 60 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

b. "Frequency synthesiser" "assemblies" having a "frequency switching time" from one selected frequency to another of less than 1 ms;

c. "Signal analysers", as follows:

1. Capable of analysing frequencies exceeding 31 GHz;

2. "Dynamic signal analysers" with a "real-time bandwidth" exceeding 25.6 kHz, except those using only constant percentage bandwidth filters (also known as octave or fractional octave filters);

d. Frequency synthesised signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

1. A maximum synthesised frequency exceeding 31 GHz;

2. A "frequency switching time" from one selected frequency to another of less than 1 ms; or

3. A single sideband (SSB) phase noise better than $(126+20\log_{10}F-20\log_{10}f)$ in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Note: 3A02.d does not embargo equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analysers with a maximum operating frequency exceeding 31 GHz;

Note: 3A02.e does not embargo "swept frequency network analysers" with a maximum operating frequency not exceeding 40 GHz and which cannot be remotely controlled (i.e., contain a data bus for interfacing).

f. Microwave test receivers with both of the following:

1. A maximum operating frequency exceeding 31 GHz; and

2. The capability of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having either of the following characteristics:

1. Long term stability (aging) less (better) than 1×10^{-11}/month; or

2. "Space qualified";

Note: 3A02.g.1 does not embargo non-"space qualified" rubidium standards.

h. Emulators for microcircuits embargoed by 3A01.a.3 or 3A01.a.9;

Note: 3A02.h does not embargo emulators designed for a "family" which contains at least one device not embargoed by 3A01.a.3 or 3A01.a.9.

B. Test, Inspection and Production Equipment

Equipment for the manufacture or testing of semiconductor devices or materials, as follows, and specially designed components and accessories therefor.

3B01 "Stored programme controlled" equipment for epitaxial growth.

a. Capable of producing a layer thickness uniform to less than ±2.5% across a distance of 75 mm or more;

b. Metal organic chemical vapour deposition (MOCVD) reactors specially designed for compound semiconductor crystal growth by the chemical reaction between materials embargoed by 3C03 or 3C04;

c. Molecular beam epitaxial growth equipment using gas sources;

3B02 "Stored programme controlled" equipment designed for ion implantation, as follows.

a. With accelerating voltages exceeding 200 keV;

b. Specially designed and optimized to operate at accelerating voltages of less than 10 keV;

c. With direct write capability; or

d. Capable of high energy oxygen implant into a heated semiconductor material "substrate";

3B03 "Stored programme controlled" anisotropic plasma dry etching equipment.

a. With cassette-to-cassette operation and load-locks, and having either of the following:

1. Magnetic confinement; or

2. Electron cyclotron resonance (ECR);

b. Specially designed for equipment embargoed by 3B06 and having either of the following:

1. Magnetic confinement; or

2. Electron cyclotron resonance (ECR);

3B04 "Stored programme controlled" plasma enhanced CVD equipment, as follows.

a. With cassette-to-cassette operation and load-locks, and having either of the following:

1. Magnetic confinement; or

2. Electron cyclotron resonance (ECR);

b. Specially designed for equipment embargoed by 3B06 and having either of the following:

1. Magnetic confinement; or

2. Electron cyclotron resonance (ECR);

3B05 "Stored programme controlled" multifunctional focussed ion beam systems specially designed for manufacturing, repairing, physical layout analysis and testing of masks or semiconductor devices, having either of the following.

a. Target-to-beam position feedback control precision of 0.25 micrometre or finer; or

b. Digital-to-analogue conversion resolution exceeding 12 bits;

3B06 "Stored programme controlled" automatic loading multi-chamber central wafer handling systems, having interfaces for wafer input and output, to which more than two pieces of semiconductor processing equipment are to be connected, to form an integrated system in a vacuum environment for sequential multiple wafer processing.

Note: 3B06 does not embargo automatic robotic wafer handling systems not designed to operate in a vacuum environment.

3B07 "Stored programme controlled" lithography equipment.

a. Align and expose step and repeat equipment for wafer processing using photo-optical or X-ray methods, having any of the following:

1. A light source wavelength shorter than 400 nm;
2. A numerical aperture more than 0.40; or
3. An overlay accuracy of ±0.20 micrometre (3 sigma) or better;

Note: 3B07.a does not embargo align and expose step and repeat equipment having all of the following:

1. A light source wavelength of 436 nm or more;
2. A numerical aperture 0.38 or less; and
3. An image size diameter 22 mm or less;

b. "Stored programme controlled" equipment specially designed for mask making or semiconductor device processing using deflected focussed electron beam, ion beam or "laser" beam, with any of the following:

1. A spot size smaller than 0.2 micrometre;
2. Capable of producing a pattern with a feature size of less than 1 micrometre; or
3. An overlay accuracy of better than ±0.20 micrometre (3 sigma);

3B08 Masks or reticles.

a. For integrated circuits embargoed by 3A01;
b. Multi-layer masks with a phase shift layer;

3B09 "Stored programme controlled" test equipment, specially designed for testing semiconductor devices and unencapsulated dice.

a. For testing S-parameters of transistor devices at frequencies exceeding 31 GHz;
b. For testing integrated circuits, and "assemblies" thereof, capable of performing functional (truth table) testing at a pattern rate of more than 40 MHz;

Note: 3B09.b does not embargo test equipment specially designed for testing:

1. "Assemblies" or a class of "assemblies" for home or entertainment applications;
2. Unembargoed electronic components, "assemblies" or integrated circuits.

c. For testing microwave integrated circuits at frequencies exceeding 3 GHz;

Note: 3B09.c does not embargo test equipment specially designed for testing microwave integrated circuits operating solely in the Standard Civil Telecommunication Bands at frequencies not exceeding 31 GHz.

d. Electron beam systems designed for operation at or below 3 keV, or "laser" beam systems, for the non-contactive probing of powered-up semiconductor devices, with both of the following:

1. Stroboscopic capability with either beam-blanking or detector strobing; and
2. An electron spectrometer for voltage measurement with a resolution of less than 0.5 V;

Note: 3B09.d does not embargo scanning electron microscopes, except when specially designed and instrumented for the non-contactive probing of powered-up semiconductor devices.

C. Materials

3C01 Hetero-epitaxial materials consisting of a "substrate" with stacked epitaxially grown multiple layers of:

a. Silicon;
b. Germanium; or
c. III/V compounds of gallium or indium;

Technical Note: III/V compounds are polycrystalline or binary or complex monocrystalline products consisting of elements of groups IIIA and VA of Mendeleyev's periodic classification table (gallium arsenide, gallium-aluminium arsenide, indium phosphide, etc.).

3C02 Resist materials, and "substrates" coated with embargoed resists.

a. Positive resists with a spectral response optimized for use below 370 nm;
b. All resists, for use with electron beams or ion beams, with a sensitivity of 0.01 microcoulomb/mm^2 or better;
c. All resists, for use with X-rays, with a sensitivity of 2.5 mJ/mm^2 or better;
d. All resists optimized for surface imaging technologies, including silyated resists;

Technical Note: Silyation techniques are defined as processes incorporating oxidation of the resist surface to enhance performance for both wet and dry developing.

3C03 Metal-organic compounds of aluminium, gallium or indium, having a purity (metal basis) better than 99.999%.

3C04 Hydrides of phosphorus, arsenic or antimony, having a purity better than 99.999%, even diluted in neutral gases.

Note: 3C04 does not embargo hydrides containing less than 20% molar of rare gases or hydrogen;

D. Software

3D01 "Software" specially designed for the "development" or "production" of equipment embargoed by 3A01.b to 3A02.h or 3B.

3D02 "Software" specially designed for the "use" of "stored programme controlled" equipment embargoed by 3B.

3D03 Computer-aided-design (CAD) "software" for semiconductor devices or integrated circuits, having any of the following:

a. Design rules or circuit verification rules;
b. Simulation of the physically laid out circuits; or
c. Lithographic processing simulators for design;

Technical Note: A lithographic processing simulator is a "software" package used in the design phase to define the sequence of lithographic, etching and deposition steps for translating masking patterns into specific topographical patterns in conductors, dielectrics or semiconductor material.

Note: 3D03 does not embargo "software" specially designed for schematic entry, logic simulation, placing and routing, layout verification or process generation tape;

N.B.: Libraries, design attributes or associated data for the design of semiconductor devices or integrated circuits are considered as technology.

E. Technology

3E01 Technology according to the General Technology Note for the "development" or "production" of equipment or materials embargoed by 3A, 3B or 3C.

3E02 Other technology for the "development" or "production" of the following.

a. Vacuum microelectronic devices;
b. Hetero-structure semiconductor devices such as high electron mobility transistors (HEMT), hetero-bipolar transistors (HBT), quantum well or super lattice devices;
c. Superconductor electronic devices;

Note: 3E01 does not embargo technology for the "development" or "production" of:

a. Microwave transistors operating at frequencies below 31 GHz;

b. Integrated circuits embargoed by 3A01.a.3 to 11, having both of the following characteristics:

1. Using technology of one micrometre or more, and

2. Not incorporating multi-layer structures.

N.B.: This Note does not preclude the export of multilayer technology for devices incorporating a maximum of two metal layers and two polysilicon layers.

Note for Category 3:

Governments may permit, as administrative exceptions, the shipment to the People's Republic of China of:

a. Epitaxial reactors embargoed by 3B01.a for use in silicon semiconductor manufacturing, except those specially designed for metal-organic deposition;

b. Instrument "frequency synthesisers" or synthesised signal generators embargoed by 3A02.b or 3A02.d.2, and specially designed components or accessories therefor, provided they have a synthesised output frequency of 2.6 GHz or less and the "frequency switching time" is 0.3 ms or more;

c. Analogue instrumentation magnetic tape recorders embargoed by 3A02.a.1, provided all of the following conditions are met:

1. Bandwidths do not exceed:

a. 4 MHz per track: or

b. 2 MHz per track and have up to 42 tracks;

2. Tape speed does not exceed 6.1 m/s;

3. They are not designed for underwater use;

4. They are not ruggedised for military use; and

5. Recording density does not exceed 653.2 magnetic flux sine waves per mm;

d. Positive resists not optimized for photolithography at a wavelength of less than 365 nm, provided they are not embargoed by 3C02.b to d.

Category 4—Computers

Note: 1. Computers, related equipment or "software" performing telecommunications or "local area network" functions must also be evaluated against the performance characteristics of 5A.

N.B.: 1. Control units which directly interconnect the buses or channels of central processing units, "main storage" or disk controllers, are not regarded as telecommunications equipment described in 5A.

N.B.: 2. For the embargo status of "software" which provides routing or switching of "datagram" or "fast select" packets (i.e., packet by packet route selection) or for "software" specially designed for packet switching, see 5A.

Note: 2. Computers, related equipment or "software" performing cryptographic, cryptanalytic, certifiable multi-level security or certifiable user isolation functions, or which limit electromagnetic compatibility (EMC), must also be evaluated against the performance characteristics of 5B.

A. Equipment, Sub-Assemblies & Components

4A01 Electronic computers and related equipment, as follows, and "assemblies" and specially designed components therefor.

a. Specially designed to have either of the following characteristics:

1. Rated for operation at an ambient temperature below 228 K (−45 °C) or above 343 K (+70 °C);

Note: The temperature limits in 4A01.a.1. do not apply to computers specially designed for civil automobile and train engine applications.

2. Radiation-hardened to exceed any of the following specifications:

a. Total Dose, 5×10^5 Rads (Si)

b. Dose Rate Upset, 5×10^8 Rads (Si)/sec

c. Single Event Upset 1×10^{-7} Error/bit/day; or

Note: Equipment designed or rated for transient ionising radiation is embargoed by the ITAR.

b. Having characteristics or performing functions exceeding the limits in 5B;

4A02 "Hybrid computers", as follows, and "assemblies" and specially designed components therefor.

a. Containing "digital computers" embargoed by 4A03;

b. Containing analogue-to-digital or digital-to-analogue converters having both of the following characteristics:

1. 32 channels or more; and

2. A resolution of 14 bits (plus sign bit) or more with a conversion rate of 200,000 conversions/s or more;

4A03 "Digital computers", "assemblies", and related equipment therefor, as follows, and specially designed components therefor.

Note: 1. 4A03 includes vector processors, array processors, logic processors, and equipment for "image enhancement" or "signal processing".

Note: 2. The embargo status of the "digital computers" or related equipment described in 4A03 is governed by the embargo status of other equipment or systems provided:

a. The "digital computers" or related equipment are essential for the operation of the other equipment or systems;

b. The "digital computers" or related equipment are not a "principal element" of the other equipment or systems; *and*

N.B.: 1. The embargo status of "signal processing" or "image enhancement" equipment described in 4A03.f and specially designed for other equipment with functions limited to those required for the other equipment is determined by the embargo status of the other equipment even if it exceeds the "principal element" criterion.

N.B.: 2. For the embargo status of "digital computers" or related equipment for telecommunications equipment, see 5A.

c. The technology for the "digital computers" and related equipment is governed by 4E.

Note: 3. "Digital computers" or related equipment are not embargoed by 4A03 provided:

a. They are essential for medical applications;

b. The equipment is substantially restricted to medical applications by nature of its design and performance;

c. The equipment does not have "user-accessible programmability" other than that allowing for insertion of the original or modified "programmes" supplied by the original manufacturer;

d. The "composite theoretical performance" of any "digital computer" which is not designed or modified but essential for the medical application does not exceed 20 million composite theoretical operations per second (Mtops); and

e. The technology for the "digital computers" or related equipment is governed by 4E.

a. Designed for combined recognition, understanding and interpretation of image or continuous (connected) speech;

a. Designed or modified for "fault tolerance";

Note: For the purposes of 4A03.b, "digital computers" and related equipment are not considered to be designed or modified for "fault tolerance", if they use:

1. Error detection or correction algorithms in "main storage";

2. The interconnection of two "digital computers" so that, if the active central processing unit fails, an idling but mirroring central processing unit can continue the system's functioning;

3. The interconnection of two central processing units by data channels or by use of shared storage to permit one central processing unit to perform other work until the second central processing unit fails, at which time the first central processing unit takes over in order to continue the system's functioning; or

4. The synchronisation of two central processing units by "software" so that one central processing unit recognises when the other central processing unit fails and recovers tasks from the failing unit.

c. "Digital computers" having a "composite theoretical performance" exceeding 12.5 million composite theoretical operations per second (Mtops);

d. "Assemblies" specially designed or modified to enhance performance by aggregation of "computing elements", as follows:

Note: 1. 4A03.d applies only to "assemblies" and programmable interconnections not exceeding the limits in 4A03.c, when shipped as unintegrated "assemblies". It does not apply to "assemblies" inherently limited by nature of

their design for use as related equipment embargoed by 4A03.e to 4A03.k.

Note: 2. 4A03.d does not embargo any "assembly" specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A03.c.

1. Designed to be capable of aggregation in configurations of 16 or more "computing elements"; or

2. Having a sum of maximum data rates on all data channels available for connection to associated processors exceeding 40 million Bytes/s;

e. Disk drives and solid state storage equipment:

1. Magnetic, erasable optical or magneto-optical disk drives with a "maximum bit transfer rate" exceeding 25 million bit/s;

2. Solid state storage equipment, other than "main storage" (also known as solid state disks or RAM disks), with a "maximum bit transfer rate" exceeding 36 million bit/s;

f. Equipment for "signal processing" or "image enhancement" having a "composite theoretical performance" exceeding 8.5 million composite theoretical operations per second (Mtops);

g. Graphics accelerators or graphics coprocessors exceeding a "3–D Vector Rate" of 400,000 or, if supported by 2–D vectors only, a "2–D vector rate" of 600,000;

Note: The provisions of 4A03.g do not apply to work stations designed for and limited to:

1. Graphic arts (e.g., printing, publishing); and

2. The display of two-dimensional vectors.

h. Colour displays or monitors having more than 120 resolvable elements per cm in the direction of the maximum pixel density;

Note: 1. 4A03.h does not embargo displays or monitors not specially designed for electronic computers.

Note: 2. Displays specially designed for air traffic control systems are treated as specially designed components for ATC systems under Category 6.

i. Input/output control units designed for use with equipment embargoed by 4A03.e;

j. Equipment performing analogue-to-digital or digital-to-analogue conversions exceeding the limits in 3A01.a.5;

k. Equipment containing "terminal interface equipment" exceeding the limits in 5A02.c;

Note: For the purposes of 4A03.k, "terminal interface equipment" includes "local area network" interfaces, modems and other communications interfaces. "Local area network" interfaces are evaluated as "network access controllers".

4A04 Computers, as follows, and specially designed related equipment, "assemblies" and components therefor.

a. "Systolic array computers";

b. "Neural computers";

c. "Optical computers".

B. Test, Inspection & Production Equipment

Equipment for the development and production of magnetic and optical storage equipment as follows:

4B01 Equipment specially designed for the application of magnetic coating to embargoed non-flexible (rigid) magnetic or magneto-optical media.

Note: 4B01 does not embargo general-purpose "sputtering" equipment.

4B02 "Stored programme controlled" equipment specially designed for monitoring, grading, exercising or testing embargoed rigid magnetic media.

4B03 Equipment specially designed for the "production" or alignment of heads or head/disk assemblies for embargoed rigid magnetic and magneto-optical storage, and electro-mechanical or optical components therefor.

C. Materials

4C01 Materials specially formulated for and "required" for the fabrication of head/disk assemblies for embargoed magnetic and magneto-optical hard disk drives.

D. Software

Note: The embargo status of "software" for the "development", "production", or "use" of equipment described in other Categories is dealt with in the appropriate Category. The embargo status of "software" for equipment described in this Category is dealt with herein.

4D01 "Software" specially designed or modified for the "development", "production" or "use" of equipment, materials or "software" embargoed by 4A, 4B, 4C or 4D;

4D02 "Software" specially designed or modified to support "technology" embargoed by 4E;

4D03 Specific "software", as follows:

a. "Programme" proof and validation "software" using mathematical and analytical techniques and designed or modified for "programmes" having more than 500,000 "source code" instructions;

b. "Software" allowing the automatic generation of "source codes" from data acquired on line from external sensors described in these Lists;

c. Operating system "software", "software" development tools and compilers specially designed for "multi data stream processing" equipment, in "source code";

d. "Expert systems" or "software" for "expert system" inference engines providing both:

1. Time dependent rules; and

2. Primitives to handle the time characteristics of the rules and the facts;

e. "Software" having characteristics or performing functions exceeding the limits in Category 5B;

f. Operating systems specially designed for "real time processing" equipment which guarantees a "global interrupt latency time" of less than 30 microseconds;

E. Technology

4E01 "Technology" according to the General Technology Note, for the "development", "production" or "use" of equipment, materials or "software" embargoed by 4A, 4B, 4C, or 4D;

4E02 Other technology.

a. "Technology" for the "development" or "production" of equipment released under 4A03.g;

b. "Technology" for the "development" or "production" of equipment designed for "multi-data-stream processing";

c. Technology "required" for the "development" or "production" of magnetic hard disk drives with a "maximum bit transfer rate" exceeding 11 million bit/s.

Note: 1. Governments may permit, as administrative exceptions, the shipment of "digital computers" embargoed solely by 4A03.c, or specially designed components therefor, and "software" embargoed solely by 4D01, provided:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. The "CTP" of the "digital computers" does not exceed 20 Mtops;

d. They do not contain any embargoed related equipment;

e. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in paragraph c. above;

f. They are not shipped as enhancements to computers designed within a proscribed country;

N.B.: This does not preclude the enhancement of such computers when they are used by civil end-users in civil applications.

g. Any embargoed "software" is the minimum required for the "use" of the approved "digital computers";

h. The Government of the exporting country shall:

1. Be reasonably satisfied that:

a. The equipment will be used primarily for the specific non-strategic application for which the export would be approved; and

b. The equipment will not be used for the design, development or production of embargoed products;

2. Promptly report monthly the export to the Committee, in the regular monthly statistical returns, identifying specifically the equipment to be provided, the end-user with his full name and address and the end-use of the equipment; and

3. Promptly report to the Committee any evidence of the removal or diversion of the equipment from authorised purposes related to the specific export licence.

Note: 2. Governments may permit, as administrative exceptions, the shipment of equipment embargoed by 4A03.e or 4A03.i provided:

a. The "maximum bit transfer rate" does not exceed 36 million bit/s;

b. They are exported as part of a computer system or as an enhancement to a previously exported system;

c. The Government of the exporting country shall notify the Committee 30 days prior to the proposed export; and

d. The Government of the exporting country shall:

1. Be reasonably satisfied that:

a. The equipment will be used primarily for the specific non-strategic application for which the export would be approved; and

b. The equipment will not be used for the design, development or production of embargoed products;

2. Promptly report monthly the export to the Committee, in the monthly statistical returns, identifying specifically the equipment to be provided, the end-user with his full name and address and the end-use of the equipment; and

3. Promptly report to the Committee any evidence of the removal or diversion of the equipment from authorised purposes related to the specific export licence.

Note: 3. The Committee will favourably consider the export of "digital computers" or related equipment therefor embargoed solely by 4A03.c, 4A03.e, 4A03.f, or 4A03.i, or "software" embargoed solely by 4D01, provided:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. They do not exceed any of the following limits:

1. "Composite theoretical performance" of the "digital computers"—23 Mtops;

2. "Maximum bit transfer rate" of any input/output control unit—disk drive combination—36 Mbit/s; or

3. "Composite theoretical performance" of the "signal processing" or "image enhancement" equipment—12.5 Mtops;

d. They do not contain any other embargoed related equipment;

e. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in paragraph c. above;

f. They are not shipped as enhancements to computers designed within a proscribed area;

g. Any embargoed "software" is the minimum required for the "use" of the approved "digital computers" and related equipment;

h. Governments administer this Note as follows:

1. The requesting Government will in all cases provide the Committee with information which includes:

a. A signed statement by a responsible representative of the end-user(s) or the importing agency describing the end-use and certifying that:

1. The "digital computers" or "related equipment" will:

a. Be used only for civil applications; and

b. Not be reexported or otherwise disposed of without permission from the Government of the exporting country;

2. Responsible Western representatives of the supplier will:

a. Have the right of access to the "computer using facility" and all equipment, wherever located, during normal working hours and at any other time the equipment is operating; and

b. Be furnished information demonstrating continued authorised application of the equipment; and

c. These Western representatives will be notified of any significant change of application or of other facts, on which the licence was based;

b. A full description of:

1. The equipment; and

2. Its intended application and workload; and

c. A complete identification of all end-users and their activities;

2. The requesting Government will in all cases:

a. Promptly report to the Committee evidence of:

1. Any violation of the conditions of this Note; or

2. Any removal or diversion of the equipment from authorised purposes, related to the specific export licence; and

b. In such cases, immediately terminate to the extent possible and in accordance with their legislation, all further shipments of equipment and spare parts, technology and "software" therefor by the supplier to the specified end-user(s);

i. The Committee will:

1. Approve the export of equipment described in this Note if no member country has filed an objection within four weeks of the receipt of complete information on the case; and

2. Consider, when assessing proposed exports and the comments of member countries on such proposed exports:

a. The appropriateness of the equipment to the stated end-use;

b. Any evidence which would indicate that the proposed end-users are:

1. Directly involved in significant strategic, including intelligence, activities; or

2. Affiliated with organisations that foster diversion to strategic purposes;

c. The extent to which the equipment will support the strategic activities of the end-users; and

d. The extent to which diversion would disrupt the activities of the proposed end-users.

"Composite Theoretical Performance" (CTP)

Abbreviations used in this Technical Note:

CE computing element (typically an arithmetic logical unit)
FP floating point
XP fixed point
t execution time
XOR exclusive OR
CPU central processing unit
TP theoretical performance (of a single CE)
CTP composite theoretical performance (multiple CEs)
R effective calculating rate

Execution time 't' is expressed in microseconds, and CTP is expressed in Mtops (millions of theoretical operations per second).

CTP is a measure of computational performance given in millions of theoretical operations per second (Mtops). In calculating the Composite Theoretical Performance (CTP) of a configuration of Computing Elements (CEs) the following three steps are required:

1. Calculate the effective calculating rate R for each CE;

2. Apply the word length adjustment to this rate, resulting in a Theoretical Performance (TP) for each CE. Select the maximum resulting value of TP;

3. If there is more than one computing element, combine the TPs resulting in a Composite Theoretical Performance for the configuration.

Note: This aggregation should not be applied to computers connected through a decontrolled "local area network".

The following table shows the method of calculating the Effective Calculating Rate R for each Computing Element:

For computing elements (CEs) implementing:	Effective calculating Rate, R
XP only (R_{xp})	$1 \div 3 \times (t_{xp\ add})$.
If no add is implemented use: $1 \div$	$(t_{xp\ mult})$.
If neither andd not multiply is implemented use the fastest available arithmetic operation as follows: $1 \div$.	$3 \times (t_{xp})$.
See Notes X and Z	
FP only (R_{fp})	Max $1 \div t_{fp\ add}$, $1 \div t_{fp\ mult}$.
See Notes X and Y	
Both FP and XP (R)	Calculate both R_{xp}, R_{fp}

For computing elements (CEs) implementing:	Effective calculating Rate, R
For simple logic processors not implementing any of the specified arithmetic operations.	$13 \times t_{log}$. Where t_{log} is the execution time of the XOR, or for logic hardware not implementing the XOR, the fastest simple logic operation. See Notes X and Z.
For special logic processors not using any of the specified arithmetic or logic operations.	$R = R' \times WL/64$. Where R' is the number of results per second, WL is the number of *bits* upon which the logic operation occurs, and 64 is a factor to normalize to a 64 bit operation.

Note X: For ECs which perform multiple arithmetic operations of a specific type in a single cycle (e.g., two additions per cycle), the execution time t is given by: t = cycle time ÷ the number of arithmetic operations per machine cycle.

CEs which perform different types of arithmetic operations in a single machine cycle are to be treated as multiple separate CEs performing simultaneously (e.g., a CE performing an addition and a multiplication in one cycle is to be treated as two CEs, the first performing an addition in one cycle and the second performing a multiplication in one cycle).

If a single CE has both scalar function and vector function, use larger value.

Note Y: If no FP add or FP multiply are implemented, but the CE performs FP divide: $R_{fp} = 1 \div t_{fp\ divide}$;

If the divide is not implemented, the fp reciprocal should be used.

If none of the specified instructions is implemented, the effective FP rate is 0.

Note Z: In simple logic operations, a single instruction performs a single logic manipulation of no more than two operands of given lengths.

In complex logic operations, a single instruction performs multiple logic manipulations to produce one or more results from two or more operands.

Rates should be calculated for all supported operand lengths, using the fastest executing instruction for each operand length based on:

1. Register-to-register. Exclude extraordinarily short execution times generated for operations on a predetermined operand or operands (for example, multiplication by 0 or 1). If no register-to-register operations are implemented, continue with (2).
2. The faster of register-to-register memory or memory-to-register operations; if these also do not exist, then continue with (3).
3. Memory-to-memory.

In each case above, use the shortest execution time certified by the manufacturer.

TP for each supported operand length WL: Adjust the effective rate R by the word length adjustment L as follows:

$TP = R \times L$, where $L = (1/3 + WL/96)$.

Note: The word length WL used in these calculations is the operand length in bits. (If an operation uses operands of different lengths, select the largest word length.) This adjustment is not applied to specialized logic processors which do not use XOR instructions. In this case TP=R.

Select the maximum resulting value of TP for:

Each XP-only CE (R_{xp});

Each FP-only CE (R_{fp});

Each combined FP and XP CE (R);

Each simple logic processor not implementing any of the specified arithmetic operations; and

Each special logic processor not using any of the specified arithmetic or logic operations.

CTP for CPUs and aggregations of CEs:

For a CPU with a single CE, CTP = TP (for CEs performing both fixed and floating point operations, $TP = \max(TP_{fp}\ TP_{xp})$).

For aggregations of multiple CEs operating simultaneously:

Note 1: For configurations which do not allow all of the CEs to run simultaneously, the configuration of permissible CEs that provides the largest CTP should be used. The TP of each contributing CE is to be calculated at its maximum value theoretically possible before the CTP of the combination is derived.

Note 2: A single integrated circuit chip or board assembly may contain multiple CEs.

Note 3: Simultaneous operations are assumed to exist when the computer manufacturer claims concurrent, parallel or simultaneous operation or execution in a manual or brochure for the computer.

$CTP = TP_1 + C_2 \times TP_2 + \ldots + C_n \times TP_n$, where TP_1 is the highest of the TPs, and C_i is a coefficient determined by the strength of the interconnection between CEs, as follows:

For multiple CEs sharing memory:

$C_2 = C_3 = C_4 = \ldots = C_n = 0.75$.

Note: CEs share memory if they access a common segment of solid state memory. This memory may include cache storage, main storage, or other internal memory. Peripheral memory devices such as disk drives, tape drives, or RAM disks are not included.

For multiple CEs not sharing memory, interconnected by one or more data channels:

$C_i = 8 \times S_i \div (WL_i \times TP_i)$ (i=2, ..., n)

where S_i = sum of the maximum data rates (in units of MByte/sec.) for all data channels connected to the ith CE or CPU,

Note: This does not include channels dedicated to transfers between one individual processor and its most immediate memory or related equipment.

WL_i is the operand length for which TP_i was obtained, and the factor 8 normalizes S_i (measured in bytes per second) and WL (given in bits).

Note: If C_i exceeds 0.75, the formula for CE/CPU sharing direct addressable memory applies (i.e., C_i cannot: exceed 0.75).

Category 5—Telecommunications and Information Security

Note: This category is temporarily divided into two sub-categories, designated 5A and 5B. The new CCL will renumber the entries in these sub-categories and include all of these entries within a single category (Category 5).

Category 5A—Telecommunications

This category includes "telecommunications transmission equipment", "stored program controlled" switching equipment, telecommunication management systems, optical fibres and optical cables, and active phased array antennas.

Notes: 1. The embargo status of components, lasers, test and production equipment, materials and software therefor which are specially designed for telecommunications equipment or systems is defined by this item.

2. "Digital computers", related equipment or "software", when essential for the operation and support of telecommunications equipment described by this category, are regarded as specially designed components, provided they are the standard models customarily supplied by the manufacturer. This includes operation, administration, maintenance, engineering or billing computer systems.

5A. A. Equipment, Sub-Assemblies and Components

5A–A01. Any type of telecommunications equipment having any of the following characteristics, functions or features:

a. Equipment, other than equipment on board satellites, specially hardened to withstand gamma, neutron or ion radiation;

b. Equipment specially designed to withstand transitory electronic effects or

electromagnetic pulse arising from a nuclear explosion;

c. Electronic equipment, other than equipment on board satellites, specially designed to operate outside the temperature range from −54 °C to +124 °C.

5A–A02 "Telecommunication transmission equipment" or systems and specially designed components and accessories therefor having any of the following characteristics, functions or features:

a. Employing digital techniques, including digital processing of analogue signals, and designed to operate at a "digital transfer rate" at the highest multiplex level exceeding 45 Mbit/s or a "total digital transfer rate" of 90 Mbit/s;

Note: 5A–A02.a does not embargo equipment specially designed to be integrated and operated in any satellite system for civil use.

b. "Stored program controlled" digital cross connect equipment with a total digital transfer rate exceeding 8.5 million bits per second per port;

c. Equipment containing:

1. Modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 9,600 b/s;

2. "Communication channel controllers" with a digital output with a "data signalling rate" exceeding 64,000 b/s per channel; or

3. "Network access controller" and related common medium with a "digital transfer rate" exceeding 33 Mbits/s;

N.B.: If any equipment contains a "network access controller", it cannot have any type of telecommunications interface except for 5A–A02.c.1 to .3 above.

d. Employing a "laser" and having any of the following characteristics:

1. Having a transmission wavelength exceeding 1,000 nm;

2. Employing analogue techniques and having a bandwidth exceeding 45 MHz;

3. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);

4. Employing wavelength division multiplexing techniques; or

5. Performing "optical amplification";

e. Radio equipment operating at input or output frequencies exceeding:

1. 31 GHz for satellite-earth station applications;

2. 26.5 GHz for other applications.

Note: 5A–A02.e.2 does not embargo equipment for civil use when conforming with an ITU allocated band between 26.5 and 31 GHz.

f. Radio equipment:

1. Employing quadrature-amplitude-modulation (QAM) techniques above level 4;

2. Employing other digital modulation techniques and having a "spectral efficiency" greater than 3 bit/sec/Hz;

Note: 5A–A02.f.2 does not embargo equipment specially designed to be integrated and operated in any satellite system for civil use

g. Equipment providing functions of digital "signal processing" as follows:

1. Voice coding at rates <2,400 b/s;

2. Employing circuitry which incorporates "user-accessible programmability" of digital "signal processing" circuits exceeding the limits of *Category 4;*

h. Radio transmission equipment operating in the 1.5 to 87.5 MHz band and having any of the following characteristics:

1. a. Automatically predicting and selecting frequencies and channel rates to optimize the transmission; and

b. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of one kilowatt or greater in the 1.5 to 30 Mhz frequency range or 250 watts or greater in the 30 to 87.5 MHz frequency range, over an instantaneous bandwidth of one octave or more and with an output harmonic and distortion content of better than −80 dB; or

2. Incorporating adaptive techniques providing more than 15 dB suppression of an interfering signal;

i. Radio equipment employing "spread spectrum" or "frequency agility" (frequency hopping) techniques having any of the following characteristics:

1. User programmable spreading codes;

2. A total transmitted bandwidth which is 100 or more times greater than the bandwidth of any one information channel and in excess of 50 KHz;

j. Digitally controlled radio receivers having more than 1,000 channels, which:

1. Search or scan automatically a part of the electromagnetic spectrum;

2. Identify the received signals or the type of transmitter; and

3. Have a frequency switching time of less than 1 ms;

k. Underwater communications systems having any of the following characteristics:

1. An acoustic carrier frequency outside the range of 20 to 60 KHz;

2. Using an electromagnetic carrier frequency below 30 KHz; or

3. Using electronic beam steering techniques.

5A–A03 "stored programme controlled" switching equipment and related signalling systems having any of the following characteristics, functions or features:

Note: Statistical multiplexers, which provide switching with digital input and digital output, are treated as "stored programme controlled" switches.

a. "Common channel signalling",

N.B.: Signalling systems in which the signalling channel is carried in and refers to no more than 32 multiplexed channels forming a trunk line of no more than 2 Mb/s, and in which the signalling information is carried in a fixed, time division multiplexed channel without the use of labeled messages, are not considered to be common channel signalling systems.

b. Containing "Integrated Services Digital Network (ISDN)" functions and having any of the following:

1. Switch-terminal (e.g., subscriber line) interfaces with a "digital transfer rate" at the highest multiplex level exceeding 192,000 bits/sec, including the associated signalling channel (e.g., 2B+D); or

2. The capability that a signalling message received by a switch on a given channel that is related to a communication on another channel may be passed through to another switch.

Note: This does not preclude:

a. The evaluation and appropriate actions taken by the receiving switch.

b. Unrelated user message traffic originating on a D channel of ISDN.

c. Multi-level priority and pre-emption for circuit switching;

Note: 5A–A03.c does not embargo single-level call pre-emption.

d. "Dynamic adaptive routing";

e. Routing or switching of "datagram" packets;

f. Routing or switching of "fast select" packets;

Note: The restrictions of (e) and (f) do not apply to networks restricted to using only "network access controllers" or to "network access controllers" themselves.

g. Designed for automatic hand-off of cellular radio calls to other cellular switches or automatic connection to a centralized subscriber data base common to more than one switch;

h. Packet switches, circuit switches and routers with ports or lines exceeding either:

1. A "data signalling rate" of 64,000 bits/s per channel for a "communications channel controller"; or

2. A "digital transfer rate" of 33 Mbits/s for a "network access controller" and related common media.

Note: This does not preclude the multiplexing over a composite link of communications channels not embargoed by 5A–03.h.1 above.

i. "Optical switching";

j. Employing Asynchronous Transfer Mode (ATM) techniques;

k. Containing stored programme controlled digital crossconnection equipment with digital transfer rate exceeding 8.5 Mb/s per port;

5A–A04 Centralized network control having both of the following characteristics.

a. Receives data from the nodes; and

b. Processes these data in order to provide control of traffic not requiring operator decisions and thereby perform "dynamic adaptive routing";

Note: This does not preclude control of traffic as a function of predictable statistical traffic conditions.

5A–A05 Optical fibre communication cable and optical fibres as follows.

a. Optical fibre or cable of more than 50 m in length having either of the following characteristics:

1. Designed for single mode operation; or

2. For optical fibre, capable of withstanding a "proof test" tensile stress of 2.0×10^9 N/m^2 or more.

b. Components and accessories specially designed for the above optical fibres or cable, except connectors for use with optical fibres or cable with a repeatable coupling loss of 0.5 dB or more.

c. Optical fibre cables and accessories designed for underwater use.

N.B.: For Bulkhead or hull connectors and penetrators, see Category 8.

5A–A06 Phased array antennas, operating above 10.5 GHz, containing active elements and distributed components and designed to permit electronic control of beam shaping and pointing, except for landing systems with instruments meeting ICAO standards (microwave landing systems (MLS)).

5A. B. Test, Inspection and Production Equipment

5A–B01 Equipment specially designed for:

a. "Development" of equipment, materials or functions embargoed in this category including measuring or test equipment;

b. "Production" of equipment, materials or functions embargoed in this category, including measuring, test or repair equipment;

c. "Use" of equipment, materials or functions exceeding any of the least stringent embargo criteria applicable in this category, including measuring, repair or test equipment;

5A–B02 Other equipment as follows:

a. Bit error rate (BER) test equipment designed or modified to test the equipment embargoed in 5A–A02.a above;

b. Data communication protocol analyzers, testers and simulators for functions embargoed by A above;

c. Stand alone "stored programme controlled" radio transmission media simulators/channel estimators specially designed for testing equipment embargoed by A above.

5A. C. Materials

5A–C01 Preforms of glass or of any other material optimized for the fabrication of optical fibres embargoed by A above.

5A. D. Software

5A–D01 "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials embargoed by A to C above;

5A–D02 "Software", specially designed or modified to support "technology" embargoed by section E below;

5A–D03 Specific "software" as follows:

a. "Generic software", other than in machine-executable form, specially designed or modified for the "use" of stored program controlled communication digital switching equipment or systems;

b. "Software" specially designed for the development or production of "software" embargoed by this Category;

c. "Software" specially designed or modified to provide characteristics, functions or features of equipment embargoed by A or B above;

d. "Software" which provides capability of recovering source code of software embargoed by this category.

e. "Software", other than in machine-executable form, specially designed or modified for the "use" of digital cellular radio equipment or systems;

Note: For "software" for "signal processing" see also "Core List" Categories 4 and 6.

5A. E. Technology

5A–E01 Technology according to the General Technology Note for the "development", "production" or "use" (excluding operation) of equipment, systems, materials or software embargoed by A, B, C, or D. above.

5A–E02 Specific technologies as follows:

a. Required technology for the "development" or "production" of telecommunications equipment specially designed to be used on board satellites.

b. Technology for the "development" or "use" of laser communication techniques with the capability of automatically acquiring and tracking signals and maintaining communications through exoatmosphere or sub-surface (water) media;

c. Technology for processing and application of coatings to optical fiber specially designed to make it suitable for underwater use;

d. Technology for "development" or "production" of equipment employing Synchronous Digital Hierarchy/ Synchronous Optical Network (SDH/ SONET) techniques;

e. Technology for the "development" or "production" of "switch fabric" exceeding 64,000 bits per second per information channel other than for digital cross connect integrated in the switch;

f. Technology for the "development" or "production" of centralized network control;

g. Technology for the "development" or "production" of digital cellular radio systems;

h. Technology for the "development" or "production" of ISDN;

Notes for Category 5A

1. Governments may permit as administrative exception, the shipment of telecommunication equipment for optical fibres embargoed by 5A–A2.d.1 of the present category, provided that the transmission wavelength is equal or less than 1370 nm.

2. Governments may permit as administrative exception, the shipment of cables or fibres embargoed by 5A–A05 provided that:

1. Quantities are normal for the envisaged end-use; *and*

2. They are for a specified civil end-use.

3. Governments may permit as administrative exception, the shipment of optical fibre test equipment embargoed by 5A–B01.c when using a transmission wavelength equal or less than 1370 nm.

Statement of Understanding: With due consideration to the risk of diversion, Administrative Exceptions Notes Nos. 1, 2, 3, immediately apply to Poland*, Hungary*, Czechoslovakia*, the People's Republic of China*, Bulgaria, Romania, Albania and Mongolia only.

* Without prejudice to the specific provisions already agreed concerning these countries.

4. Governments may permit, as administrative exceptions, the shipment to COCOM-agreed countries of equipment or systems embargoed by 5A–A02, 5A–A03, 5A–A04, 5A–A05 or 5A–A06 above and test equipment, software and "use" technology therefor, provided that the government of the exporting country:

a. Is reasonably satisfied that the equipment or systems:

1. Are designed for and will be used for specific civil applications; and

2. Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement certifying that the equipment or systems will be used for the specific end-use only.

b. Notifies the Committee at the time of licensing the export under the provision of this Note. The information to accompany each case will include:

1. The signed statement of the end-user;

2. A full description of the equipment or systems to be provided;

3. The installation site and intended application; and

c. Promptly reports to the Committee evidence of:

1. Any violation of the conditions of this Note;

2. Ar y removal or diversion of the equipment from authorized purposes related to the specific export licence.

5. Governments may permit as administrative exceptions the shipment of digital radio equipment or systems embargoed by sub-items 5A–A02.a or f above, provided:

a. The equipment or system is intended for general commercial international traffic which forms part of an international civil telecommunication system, one end of which is in a COCOM member country;

b. It is to be installed in a permanent circuit under the supervision of the COCOM member country licensee;

c. No means are to be provided for the transmission of traffic between points in a single proscribed country other than a COCOM-agreed country;

d. The "digital transfer rate" at the highest multiplex level does not exceed 156 million bit/s;

e. The equipment does not employ any of the following:

1. Quadrature amplitude modulation (QAM) techniques above 64 QAM; or

2. Other digital modulation techniques with a "spectral efficiency" greater than 6 bit/sec/Hz;

f. The equipment is not embargoed by 5A–A02.e or i above or by Category 5B;

g. Spare parts shall remain under control of the COCOM member country licensee;

h. The COCOM member country licensee or his designated representative who shall be from a non-proscribed country shall have the right of access to all the equipment;

i. There will be no transfer of embargoed technology;

j. Systems installation, operation and maintenance shall be performed by the licensee or the licensee's designated representative who shall be from non-proscribed countries using only personnel from non-proscribed countries until such time as the Committee agrees otherwise; and

k. Upon request, the licensee shall carry out an inspection to establish the following:

1. that the system is being used for the intended civil purpose;

2. that all the equipment under this Note is being used for the stated end purpose and is still located at the installation sites. After each inspection, the licensee shall report promptly (within a month) to his authorities information covering point (1) and (2) above. The exporting government must report any deviation from these conditions to COCOM.

l. Governments will notify the Committee 30 days in advance of issuing the license.

Favourable Consideration Notes

1. The Committee will favourably consider the export of radio relay communications equipment, specially designed components and accessories, specially designed test equipment, software and technology for the use of equipment or materials therefor, embargoed by this Category, provided that:

a. It is for fixed installation and civil application;

b. It is designed for operation at a total "digital transfer rate" not exceeding 156 Mbit/s;

c. It does not employ Quadrature Amplitude Modulation technique above 64 QAM or, when employing other digital modulation techniques, a "spectral efficiency" greater than 6.3 bit/s/Hz; and

d. It operates at fixed frequencies not exceeding 9 GHz.

e. When submitting export requests under the provisions of this Note, the authorities of the exporting country will provide a statement identifying:

1. The equipment or system to be provided;

2. The intended application; and

3. The location of the equipment.

Statement of Understanding: It is understood that this favourable consideration note will only apply for exports to Albania, Bulgaria, Mongolia, and Romania.

2. The Committee will favourably consider the export of optical fibre cables and optical fibre transmission equipment or systems embargoed by 5A–A02 or 5A–A05 above, provided:

a. The equipment or system is intended for general commercial international traffic in an international civil telecommunication system linking the importing country with a COCOM member country via submarine optical fibre system;

b. It is to be installed in a permanent circuit under the supervision of the COCOM member country licensee;

c. No means are to be provided for the transmission of traffic between points in one or more proscribed countries other than COCOM-agreed countries;

d. The total length of optical fibre cable to be installed within the proscribed country, excluding cable in territorial waters, does not exceed 10 km or the shortest distance which is practical for installation;

e. The "digital transfer rate" at the highest multiplex level does not exceed 565 million bit/s;

f. The "laser" transmission wavelength does not exceed 1550 nm;

g. The equipment is not embargoed by 5a–A02.d.2 to 5 above or by Category 5B;

h. Spare parts shall remain under control of the COCOM member country licensee;

i. The COCOM member country licensee or his designated representative who shall be from a non-proscribed country shall have the right of access to all the equipment;

j. There will be no transfer of embargoed technology.

k. Systems installation, operation and maintenance shall be performed by the licensee or the licensee's designated representative who shall be from non-proscribed countries using only personnel from non-proscribed countries until such time as the Committee agrees otherwise; and

l. Upon request, the licensee shall carry out an inspection to establish the following:

1. that the system is being used for the intended civil purpose;

2. that all the equipment under this Note is being used for the stated end purpose and is still located at the installation sites. After each inspection, the licensee shall report promptly (within a month) to his authorities information covering point (1) and (2) above. The exporting government must report any deviation from these conditions to COCOM.

Statement of Understanding: It is understood that Category 5A—Telecommunications—is to contain provisions which will allow the export of technology embargoed under 5A–A02 and 5A–A03 and of instrumentation, test equipment, components and "specially designed software" therefor, and of materials and components embargoed by this or other categories, for the modification or production of telecommunications equipment or systems. Such provisions should be no less favourable than those in existing Note 8 to Item 1519, Note 5 to Item 1520 and Note 18 to Item 1567 respectively.

Category 5B—"Information Security"

Note: The embargo status of "information security" equipment, "software", systems, application specific "assemblies", modules, integrated circuits, components or functions is defined in this Category even if it is a component or "assembly" of other equipment.

5B A. Equipment, Assemblies and Components

5B–A01 Systems, equipment, application specific "assemblies", modules or integrated circuits for "information security", as follows, and specially designed components therefor:

1. Designed or modified to use "cryptography" employing digital techniques to ensure "information security";

2. Designed or modified to perform cryptanalytic functions;

3. Designed or modified to use "cryptography" employing analogue techniques to ensure "information security", except:

a. Equipment using "fixed" band scrambling not exceeding 8 bands and in which the transpositions change not more frequently than once every second;

b. Equipment using "fixed" band scrambling exceeding 8 bands and in which the transpositions change not more frequently than once every ten seconds;

c. Equipment using "fixed" frequency inversion and in which the transpositions change not more frequently than once every second;

d. Facsimile equipment;

e. Restricted audience broadcast equipment;

f. Civil television equipment;

4. Designed or modified to suppress the compromising emanations of information-bearing signals;

Note: 5B–A01.4 does not embargo equipment designed to suppress emanations for health or safety reasons.

5. Designed or modified to use cryptographic techniques to generate the spreading code for "spread spectrum" or hopping code for "frequency agility" systems;

6. Designed or modified to provide certified or certifiable "multilevel security" or user isolation at a level exceeding Class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) or equivalent;

7. Communications cable systems designed or modified using mechanical, electrical or electronic means to detect surreptitious intrusion;

5B B. Test, Inspection and Production Equipment

5B–B01 Equipment specially designed for the development of equipment or functions embargoed by 5B, including measuring or test equipment;

5B–B02 Equipment specially designed for the production of equipment or functions embargoed by 5B, including measuring, test, repair or production equipment;

5B–B03 Measuring equipment specially designed to evaluate and validate the "information security" functions embargoed by 5B A or D.

5B C. Materials None

5B D. Software

5B–D01 "Software" specially designed or modified for the "development", "production" or "use" of equipment or "software" embargoed by 5B A, B, or D;

5B–D02 "Software" specially designed or modified to support technology embargoed by 5B E;

5B–D03 Specific "software" as follows:

a. "Software" having the characteristics, or performing or simulating the functions of the equipment embargoed by 5B A or B;

b. "Software" to certify "software" embargoed by 5B–D03.a;

c. "Software" designed or modified to protect against malicious computer damage, e.g., viruses;

5B E. Technology

5B–E01 Technology according to the General Technology Note for the "development", "production" or "use" of equipment or ," "software" embargoed by 5B A, B or D.

Notes for Category 5B:

1. 5B A does not embargo:

a. "Personalized smart cards" using "cryptography" restricted for use only in equipment or systems released from embargo under 5B–A03.a to f, by this Note or as described in Note 4 below;

b. Equipment containing "fixed" data compression or coding techniques;

c. Receiving equipment for radio broadcast, pay television or similar restricted audience television of the consumer type, without digital encryption and where digital decryption is limited to the video, audio or management functions;

d. Portable (personal) or mobile radiotelephones for civil use, e.g., for use with commercial civil cellular radiocommunications systems, containing encryption, when accompanying their users;

e. Decryption functions specially designed to allow the execution of copy-protected "software", provided the decryption functions are not user-accessible.

2. 5B D does not embargo:

a. "Software" "required" for the "use" of equipment released by Note 1 to 5B;

b. "Software" providing any of the functions of equipment released by Note 1 to 5B.

3. Governments may permit as administrative exceptions the export to COCOM-agreed countries of cellular radio equipment or systems designed for cryptographic operation, provided any message traffic encryption capability within the scope of the embargo in Category 5B contained in such equipment or systems is irreversibly disabled.

N.B.: Provided message traffic encryption is not possible within such a system, the export of mobile or portable cellular radio subscriber equipment containing cryptographic capabilities is permitted under this Note.

4. Governments may permit, as administrative exceptions, the shipment of the following cryptographic equipment, provided they are reasonably satisfied that the equipment is intended for civil use:

a. Access control equipment, such as automatic teller machines, self-service statement printers or point of sale terminals, which protects password or personal identification numbers (PIN) or similar data to prevent unauthorized access to facilities but does not allow for encryption of files or text, except as directly related to the password of PIN protection;

b. Data authentication equipment which calculates a Message Authentication Code (MAC) or similar result to ensure no alteration of text has taken place, or to authenticate users, but does not allow for encryption of data, text or other media other than that needed for the authentication;

c. Cryptographic equipment specially designed, developed or modified for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers, point of sale terminals or equipment for the encryption of interbanking transactions and intended for use only in such applications.

5. Governments may permit, as administrative exceptions, the shipment of the following cryptographic "software":

a. "Software" "required" for the "use" of equipment eligible for administrative exceptions under Note 4 to 5B;

b. "Software" providing any of the functions of equipment eligible for administrative exceptions under Note 4 to 5B.

Category 6—Sensors

A. Equipment, Assemblies and Components

6A01 Acoustics.

a. Marine acoustic systems, equipment or specially designed components therefor, as follows:

1. Active (transmitting or transmitting-and-receiving) systems, equipment or specially designed components therefor, as follows:

Note: 6A01.a.1 does not embargo depth sounders operating vertically below the apparatus, not including a scanning function exceeding ±10°, and limited to measuring the depth of water, the distance of submerged or buried objects or fishfinding.

a. Wide-swath bathymetric survey systems for sea bed topographic mapping:

1. Designed:

a. To take measurements at an angle exceeding 10° from the vertical; *and*

b. To measure depths exceeding 600 m below the water surface; *and*

2. Designed:

a. To incorporate multiple beams any of which is less than 2°; *or*

b. To provide data accuracies of better than 0.5% of water depth across the swath averaged over the individual measurements within the swath;

b. Object detection or location systems having any of the following:

1. A transmitting frequency below 10 kHz;

2. Sound pressure level exceeding 224 dB (reference 1 micropascal at 1 m) for equipment with an operating frequency in the band from 10 kHz to 24 kHz inclusive;

3. Sound pressure level exceeding 235 dB (reference 1 micropascal at 1 m) for equipment with an operating frequency in the band between 24 kHz and 30 kHz;

4. Forming beams of less than 1° on any axis and having an operating frequency of less than 100 kHz;

5. Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers:

a. Dynamically compensated for pressure; or

b. Incorporating other than lead zirconate titanate as the transduction element; *or*

6. Designed to measure distances to objects at ranges exceeding 5,120 m;

c. Acoustic projectors, including transducers, incorporating piezoelectric, magnetostrictive, electrostrictive, electrodynamic or hydraulic elements operating individually or in a designed combination, having any of the following:

Note: The embargo status of acoustic projectors, including transducers, specially designed for other equipment is determined by the embargo status of the other equipment.

1. An instantaneous radiated acoustic power density exceeding 0.01 mW/mm²/Hz for devices operating at frequencies below 10 kHz;

2. A continuously radiated acoustic power density exceeding 0.001 mW/mm²/Hz for devices operating at frequencies below 10 kHz;

3. Designed to withstand pressure during normal operation at depths exceeding 1,000 m; or

4. Side-lobe suppression exceeding 22 dB;

Note: 6A01.a.1.c does not embargo electronic sources which direct the sound vertically only, or mechanical (e.g., air gun or vapour-shock gun) or chemical (e.g., explosive) sources.

Technical Note: Acoustic power density is obtained by dividing the output acoustic power by the product of the area of the radiating surface and the frequency of operation.

d. Acoustic systems, equipment or components for determining the position of surface vessels or underwater vehicles designed:

1. To operate at a range exceeding 1,000 m with a positioning accuracy of less than 10 m rms (root mean square) when measured at a range of 1,000 m; or

Note: 6A01.a.l.d.1 includes equipment using coherent "signal processing" between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle, or capable of automatically correcting speed-of-sound propagation errors for calculation of a point.

2. To withstand pressure at depths exceeding 1,000 m;

2. Passive (receiving, whether or not related in normal application to separate active equipment) systems, equipment or specially designed components.

a. Hydrophones (transducers) incorporating:

1. Continuous flexible sensors or assemblies of discrete sensor elements with either a diameter or length less than 20 mm and with a separation between elements of less than 20 mm;

2. Any of the following sensing elements:

a. Optical fibres;

b. Piezoelectric polymers;

c. Flexible piezoelectric ceramic materials;

3. Hydrophone sensitivity better than −180 dB at any depth with no acceleration compensation;

4. When designed to operate at depths not exceeding 35 m, hydrophone sensitivity better than −186 dB with acceleration compensation;

5. When designed for normal operation at depths exceeding 35 m hydrophone sensitivity better than −192 dB with acceleration compensation;

6. When designed for normal operation at depths exceeding 100 m hydrophone sensitivity better than −204 dB; or

7. Designed for operation at depths exceeding 1,000 m;

Technical Note: Hydrophone sensitivity is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydrophone sensor, without a pre-amplifier, is placed in a plane wave acoustic field with an rms pressure of 1 micropascal. For example, a hydrophone of −160 dB (reference 1 V per micropascal) would yield an output voltage of 10^{-8} V in such a field, while one of −180 dB sensitivity would yield only 10^{-9} V output. Thus, −160 dB is better than −180 dB.

b. Towed acoustic hydrophone arrays with:

1. Hydrophone group spacing of less than 12.5 m;

2. Hydrophone group spacing of 12.5 m to less than 25 m and designed or able to be modified to operate at depths exceeding 35 m; or

Technical Note: Able to be modified in 6A01.a.2.b.2 means having provisions to allow a change of the wiring or interconnections to alter hydrophone group spacing or operating depth limits. These provisions are: spare wiring exceeding 10% of the number of wires, hydrophone group spacing adjustment blocks or internal depth limiting devices that are adjustable or that control more than one hydrophone group.

3. Hydrophone group spacing of 25 m or more and designed to operate at depths exceeding 100 m;

4. Heading sensors:

a. Having an accuracy of better than ±0.5°;

b. Incorporated within the array hosing and designed or able to be modified to operate at depths exceeding 35 m; or

Technical Note: Able to be modified in 6A01.a.2.b.4.b means having an adjustable or removable depth sensing device.

c. Mounted external to the array hosing and having a sensor unit capable of operating with 360° roll at depths exceeding 35 m;

5. Non-metallic strength members or longitudinally reinforced array hoses;

6. An assembled array of less than 40 mm in diameter;

7. Multiplexed hydrophone group signals; or

8. Hydrophone characteristics specified in 6A01.a.2.a;

c. Processing equipment specially designed for towed acoustic hydrophone arrays with either of the following:

1. A Fast Fourier or other transform of 1024 or more complex points in less than 20 ms with no "user-accessible programmability".

2. Time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes with "user accessible programmability."

b. Terrestrial geophones capable of conversion for use in marine systems, equipment or components embargoed by 6A01.a.2.a;

c. Correlation-velocity sonar log equipment designed to measure the horizontal speed of the equipment carrier relative to the sea bed at distances between the carrier and the sea bed exceeding 500 m;

6A02 Optical Sensors.

a. Optical detectors, as follows:

Note: 6A02.a does not embargo germanium or silicon photodevices.

1. "Space-qualified" single-element or focal plane array (linear or two dimensional) elements having any of the following:

a. 1. A peak response at a wavelength shorter than 300 nm; and

2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

b. 1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; and

2. A response "time constant" of 95 ns or less; or

c. A peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

2. Image intensifier tubes and specially designed components therefor, as follows:

a. Image intensifier tubes having all the following characteristics:

1. Having a peak response in wavelength range exceeding 400 nm but not exceeding 1,050 nm;

2. Incorporating a microchannel plate for electron image amplification with a hole pitch (centre-to-centre spacing) of less than 25 micrometres; and

3. Having any of the following:

a. An S-20, S-25 or multialkali photocathode; or

b. A GaAs or GaInAs photocathode;

b. Specially designed components as follows:

1. Fibre optic image inverters;

2. Microchannel plates having both of the following characteristics:

a. 15,000 or more hollow tubes per plate; and

b. Hole pitch (centre-to-centre spacing) of less than 25 micrometres; or

3. GaAs or GaInAs photocathodes.

3. Non-"space-qualified" linear or two dimensional focal plane arrays, having any of the following:

a. 1. Individual elements with a peak response within the wavelength range exceeding 900 nm but not exceeding 1,050 nm; and

2. A response "time constant" of less than 0.5 ns;

b. 1. Individual elements with a peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,200 nm; and

2. A response "time constant" of 95 ns or less; or

c. Individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

Notes: 1. 6A02.a.3 includes photoconductive arrays and photovoltaic arrays.

2. 6A02.a.3 does not embargo silicon focal plane arrays, multi-element (not to exceed 16 elements) encapsulated photoconductive cells or pyroelectric detectors using any of the following:

a. Lead sulphide;

b. Triglycine sulphate and variants;

c. Lead-lanthanum-zirconium titanate and variants;

d. Lithium tantalate;

e. Polyvinylidene fluoride and variants;

f. Strontium barium niobate and variants;

g. Lead selenide.

4. Non-"space-qualified" single-element or non-focal-plane multi-element semiconductor photodiodes or phototransistors having both of the following:

a. A peak response at a wavelength exceeding 1,200 nm; and

b. A response "time constant" of 0.5 ns or less;

c. "Multispectral Imaging Sensors" designed for remote sensing applications, having:

1. An Instantaneous-Field-Of-View (IFOV) of less than 200 microradians; or

2. Specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm; and

a. Providing output imaging data in digital format; and

b. 1. "Space-qualified"; or

2. Designed for airborne operation and using other than silicon detectors;

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating either of the following:

1. Image intensifier tubes embargoed by 6A02.a.2 or

2. Focal plane arrays embargoed by 6A02.a.3;

Note: 6A02.c does not embargo the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use;

Technical Note: Direct view refers to imaging equipment operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically, or by any other means.

d. Special support components, as follows:

1. "Space-qualified" cryocoolers;

2. Non-"space-qualified" cryocoolers, as follows:

a. Closed cycle with a specified Mean-Time-To-Failure (MTTF) exceeding 2,500 hours;

b. Closed cycle with a specified Mean-Time-Between-Failures (MTBF) exceeding 2,500 hours;

c. Joule-Thomson (JT) self-regulating minicoolers for bore diameters of less than 8 mm;

3. Optical sensing fibres:

a. Specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive; or

b. Modified structurally to have a "beat length" of less than 50 mm (high birefringence);

6A03 Cameras.

a. Instrumentation cameras, as follows:

1. High-speed cinema recording cameras using any film format from 8 mm to 16 mm inclusive, in which the film is continuously advanced throughout the recording period, and that are capable of recording at framing rates exceeding 13,150 frames per second;

Note: 6A03.a.1 does not embargo cinema recording cameras for normal civil purposes.

2. Mechanical high speed cameras, in which the film does not move, capable of recording at rates exceeding 1,000,000 frames per second for the full framing height of 35 mm film, or at proportionately higher rates for lesser frame heights, or at proportionately lower rates for greater frame heights;

3. Mechanical or electronic streak cameras with writing speeds exceeding 10 mm/microsecond;

4. Electronic framing cameras having a speed exceeding 1,000,000 frames per second;

5. Electronic cameras having both of the following:

a. An electronic shutter speed (gating capability) of less than 1 microsecond per full frame; and

b. A read out time allowing a framing rate of more than 125 full frames per second;

b. Imaging cameras, as follows:

Note: 6A03.b does not embargo television or video cameras specially designed for television broadcasting.

1. Video cameras incorporating solid state sensors, having any of the following:

a. More than 4×10^6 "active pixels" per solid state array for monochrome (black and white) cameras;

b. More than 4×10^6 "active pixels" per solid state array for colour cameras incorporating three solid state arrays; or

c. More than 12×10^6 "active pixels" for solid state array colour cameras incorporating one solid state array;

2. Scanning cameras and scanning camera systems:

a. Incorporating linear detector arrays with more than 8,192 elements per array; and

b. Having mechanical scanning in one direction;

3. Incorporating image intensifiers embargoed by 6A02.a.2.a;

4. Incorporating infrared sensors embargoed by 6A02.a.3;

(For cameras specially designed or modified for underwater use, see 8A02.d and 8A02.e)

6A04 Optics.

a. Optical mirrors (reflectors), as follows:

1. "Deformable mirrors" With either continuous or multi-element surfaces, and specially designed components therefor, capable of dynamically repositioning portions of the surface of the mirror at rates exceeding 100 Hz;

2. Lightweight monolithic mirrors with an average "equivalent density" of less than 30 kg/m^2, and a total weight exceeding 10 kg;

3. Lightweight "composite" or foam mirror structures with an average "equivalent density" of less than 30 kg/m^2, and a total weight exceeding 2 kg;

4. Beam steering mirrors more than 100 mm in diameter or length of major axis with a control bandwidth exceeding 100 Hz;

b. Optical components made from zinc selenide (ZnSe) or zinc sulphide (ZnS) with transmission in the wavelength range exceeding 3,000 nm but not

exceeding 25,000 nm and either of the following:

1. Exceeding 100 cm^3 in volume; or

2. Exceeding 80 mm in diameter or length of major axis and 20 mm in thickness (depth);

c. "Space-qualified" components for optical systems, as follows:

1. Lightweighted to less than 20% "equivalent density" compared with a solid blank of the same aperture and thickness;

2. Substrates, substrates with surface coatings (single-layer or multi-layer, metallic or dielectric, conducting, semiconducting or insulating) or with protective films;

3. Segments or assemblies of mirrors designed to be assembled in space into an optical system with a collecting aperture equivalent to or larger than a single optic 1 metre in diameter;

4. Manufactured from "composite" materials having a coefficient of linear thermal expansion equal to or less than 5×10^{-6} in any coordinate direction;

d. Optical filters, as follows:

1. For wavelengths longer than 250 nm, comprised of multi-layer optical coatings and having either of the following:

a. Bandwidths equal to or less than 1 nm Full Width Half Intensity (FWHI) and peak transmission of 90% or more; or

b. Bandwidths equal to or less than 0.1 nm FWHI and peak transmission of 50% or more; or

Note: 6A04.d.1 does not embargo optical filters with fixed air gaps or Lyot-type filters.

2. For wavelengths longer than 250 nm, and having all of the following:

a. Tunable over a spectral range of 500 nm or more;

b. Instantaneous optical bandpass of 1.25 nm or less;

c. Wavelength resettable within 0.1 ms to an accuracy of 1 nm or better within the tunable spectral range; and

d. A single peak transmission of 91% or more;

3. For optical opacity switches (filters) with a field of view of 30° or wider and a response time equal to or less than 1 ns;

e. Optical control equipment, as follows:

1. Specially designed to maintain the surface figure or orientation of the "space-qualified" components embargoed by 6A04.c.1 or 3;

2. Having steering, tracking, stabilization or resonator alignment bandwidths equal to or more than 100 Hz and an accuracy of 10 microradians or less;

3. Gimbals having a maximum slew exceeding 5@, a bandwidth equal to or more than 100 Hz and either of the following:

a. 1. Exceeding 0.15 m but not exceeding 1 m in diameter or major axis length;

2. Capable of angular accelerations exceeding 2 radians/s^2; and

3. Having angular pointing errors equal to or less than 200 microradians; or

b. 1. Exceeding 1 m in diameter or major axis length;

2. Capable of angular accelerations exceeding 0.5 radians/s^2; and

3. Having angular pointing errors equal to or less than 200 microradians;

4. Specially designed to maintain the alignment of phased array or phased segment mirror systems consisting of mirrors with a segment diameter or major axis length of 1 m or more;

f. "Fluoride fibre" cable, or optical fibres therefor, having an attenuation of less than 4 dB/km in the wavelength range exceeding 1,000 nm but not exceeding 3,000 nm;

6A05 "Lasers", components and optical equipment, as follows:

Notes: 1. Pulsed "lasers" include those that run in a continuous wave (CW) mode with pulses superimposed.

2. Pulse-excited "lasers" include those that run in a continuously excited mode with pulse excitation superimposed.

3. The embargo status of Raman "lasers" is determined by the parameters of the pumping source "lasers". The pumping source "lasers" can be any of the "lasers" described below.

a. Gas "lasers", as follows:

1. Excimer "lasers" having any of the following:

a. An output wavelength not exceeding 150 nm and:

1. An output energy exceeding 50 mJ per pulse; or

2. An average or CW output power exceeding 1 W;

b. An output wavelength exceeding 150 nm but not exceeding 190 nm and:

1. An output energy exceeding 1.5 J per pulse; or

2. An average or CW output power exceeding 120 W;

c. An output wavelength exceeding 190 nm but not exceeding 360 nm and:

1. An output energy exceeding 10 J per pulse; or

2. An average or CW output power exceeding 500 W; or

d. An output wavelength exceeding 360 nm and:

1. An output energy exceeding 1.5 J per pulse; or

2. An average or CW output power exceeding 30 W;

2. Metal vapour "lasers", as follows:

a. Copper (Cu) "lasers" with an average or CW output power exceeding 20 W;

b. Gold (Au) "lasers" with an average or CW output power exceeding 5 W;

c. Sodium (Na) "lasers" with an output power exceeding 5 W;

d. Barium (Ba) "lasers" with an average or CW output power exceeding 2 W;

3. Carbon monoxide (CO) "lasers" having either:

a. An output energy exceeding 2 J per pulse and a pulsed "peak power" exceeding 5 kW; or

b. An average or CW output power exceeding 5 kW;

4. Carbon dioxide (CO_2) "lasers" having any of the following:

a. A CW output power exceeding 10 kW;

b. A pulsed output with a "pulse duration" exceeding 10 microseconds and:

1. An average output power exceeding 10 kW; or

2. A pulsed "peak power" exceeding 100 kW; or

c. A pulsed output with a "pulse duration" equal to or less than 10 microseconds and:

1. A pulse energy exceeding 5 J per pulse and "peak power" exceeding 2.5 kW; or

2. An average output power exceeding 2.5 kW;

5. "Chemical lasers", as follows:

a. Hydrogen Fluoride (HF) "lasers";

b. Deuterium Fluoride (DF) "lasers";

c. "Transfer lasers":

1. Oxygen Iodine (O_2-I) "lasers";

2. Deuterium Fluoride-Carbon dioxide (DF–CO_2) "lasers";

6. Gas discharge and ion "lasers", i.e., krypton ion or argon ion "lasers", having either:

a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 50 W; or

b. An average or CW output power exceeding 50 W;

7. Other gas "lasers", except nitrogen "lasers", having any of the following:

a. An output wavelength not exceeding 150 nm and:

1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

2. An average or CW output power exceeding 1 W;

b. An output wavelength exceeding 150 nm but not exceeding 800 nm and:

1. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 30 W; or

2. An average or CW output power exceeding 30 W;

c. An output wavelength exceeding 800 nm but not exceeding 1,400 nm and:

1. An output energy exceeding 0.25 J per pulse and a pulsed "peak power" exceeding 10 W; or

2. An average or CW output power exceeding 10 W; or

d. An output wavelength exceeding 1,400 nm and an average or CW output power exceeding 1 W;

b. Semiconductor "lasers", as follows:

Technical Note: Semiconductor "lasers" are commonly called "laser" diodes.

Note: The embargo status of semiconductor "lasers" specially designed for other equipment is determined by the embargo status of the other equipment.

1. Individual, single-transverse mode semiconductor "lasers" having:

a. An average output power exceeding 100 mW; or

b. A wavelength exceeding 1,050 nm;

2. Individual, multiple-transverse mode semiconductor "lasers", or arrays of individual semiconductor "lasers", having:

a. An output energy exceeding 500 microjoules per pulse and a pulsed "peak power" exceeding 10 W;

b. An average or CW output power exceeding 10 W; or

c. A wavelength exceeding 1,050 nm;

c. Solid state "lasers", as follows:

1. "Tunable" "lasers" having any of the following:

Note: 6A05.c.1 includes titanium—sapphire (Ti: Al_2O_3), thulium—YAG (TM: YAG), thulium—YSGG (TM: YSGG), alexandrite (CR: $BeAl_2O_4$) and colour centre "lasers".

a. An output wavelength less than 600 nm and:

1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

2. An average or CW output power exceeding 1 W;

b. An output wavelength of 600 nm or more but not exceeding 1,400 nm and:

1. An output energy exceeding 1 J per pulse and a pulsed "peak power" exceeding 20 W; or

2. An average or CW output power exceeding 20 W; or

c. An output wavelength exceeding 1,400 nm and:

1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

2. An average or CW output power exceeding 1 W;

2. Non-"tunable" "lasers", as follows:

Note: 6A05.c.2 includes atomic transition solid state "lasers".

a. Ruby "lasers" having an output energy exceeding 20 J per pulse;

b. Neodymium glass "lasers", as follows:

1. "Q-switched lasers" having:

a. An output energy exceeding 20 J but not exceeding 50 J per pulse and an average output power exceeding 10 W; or

b. An output energy exceeding 50 J per pulse;

2. Non-"Q-switched lasers" having:

a. An output energy exceeding 50 J but not exceeding 100 J per pulse and an average output power exceeding 20 W; or

b. An output energy exceeding 100 J per pulse;

c. Neodymium-doped (other than glass) "lasers", as follows, with an output wavelength exceeding 1,000 nm but not exceeding 1,100 nm:

(For Neodymium-doped (other than glass) "lasers" having an output wavelength not exceeding 1,000 nm or exceeding 1,100 nm, see 6A05.c.2.d.)

1. Pulse excited, mode-locked, "Q-switched lasers" with a "pulse duration" of less than 1 ns and:

a. A "peak power" exceeding 5 GW;

b. An average output power exceeding 10 W; or

c. A pulsed energy exceeding 0.1 J;

2. Pulse-excited, "Q-switched" lasers, with a pulse duration equal to or more than 1 ns, and:

a. A single-transverse mode output with:

1. A "peak power" exceeding 100 MW;

2. An average output power exceeding 20 W; or

3. A pulsed energy exceeding 2 J; or

b. A multiple-transverse mode output with:

1. A "peak power" exceeding 200 MW;

2. An average output power exceeding 50 W; or

3. A pulsed energy exceeding 2 J;

3. Pulse-excited, non-"Q-switched lasers", having:

a. A single-transverse mode output with:

1. A "peak power" exceeding 500 kW; or

2. An average output power exceeding 150 W; or

b. A multiple-transverse mode output with:

1. A "peak power" exceeding 1 MW; or

2. An average power exceeding 500 W;

4. Continuously excited "lasers" having:

a. A single-transverse mode output with:

1. A "peak power" exceeding 500 kW; or

2. An average or CW output power exceeding 150 W; or

b. A multiple-transverse mode output with:

1. A "peak power" exceeding 1 MW; or

2. An average or CW output power exceeding 500 W;

d. Other non-"tunable" "lasers", having any of the following:

1. A wavelength less than 150 nm and:

a. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

b. An average or CW output power exceeding 1 W;

2. A wavelength of 150 nm or more but not exceeding 800 nm and:

a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 30 W; or

b. An average or CW output power exceeding 30 W;

3. A wavelength exceeding 800 nm but not exceeding 1,400 nm, as follows:

a. "Q-switched lasers" with:

1. An output energy exceeding 0.5 J per pulse and a pulsed "peak power" exceeding 50 W;

2. An average output power exceeding:

a. 10 W for single-mode "lasers"; or

b. 30 W for multimode "lasers";

b. Non-"Q-switched lasers" with:

1. An output energy exceeding 2 J per pulse and a pulsed "peak power" exceeding 50 W; or

2. An average or CW output power exceeding 50 W; or

4. A wavelength exceeding 1,400 nm and:

a. An output energy exceeding 100 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

b. An average or CW output power exceeding 1 W;

d. Dye and other liquid "lasers", having any of the following:

1. A wavelength less than 150 nm and:

a. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

b. An average or CW output power exceeding 1 W;

2. A wavelength of 150 nm or more but not exceeding 800 nm and:

a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 20 W;

b. An average or CW output power exceeding 20 W; or

c. A pulsed single longitudinal mode oscillator with an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the "pulse duration" is less than 100 ns;

3. A wavelength exceeding 800 nm but not exceeding 1,400 nm and:

a. An output energy exceeding 0.5 J per pulse and a pulsed "peak power" exceeding 10 W; or

b. An average or CW output power exceeding 10 W; or

4. A wavelength exceeding 1,400 nm and:

a. An output energy exceeding 100 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

b. An average or CW output power exceeding 1 W;

e. Free electron "lasers";

f. Components, as follows:

1. Mirrors cooled either by active cooling or by heat pipe cooling;

Technical Note: Active cooling is a cooling technique for optical components using flowing fluids within the subsurface (nominally less than 1 mm below the optical surface) of the optical component to remove heat from the optic.

2. Optical mirrors or transmissive or partially transmissive optical or electro-optical components specially designed for use with embargoed "lasers";

g. Optical equipment, as follows:

1. Dynamic wavefront (phase) measuring equipment capable of mapping at least 50 positions on a beam wavefront with:

a. Frame rates equal to or more than 100 Hz and phase discrimination of at least 5% of the beam's wavelength; or

b. Frame rates equal to or more than 1,000 Hz and phase discrimination of at least 20% of the beam's wavelength;

2. "Laser" diagnostic equipment capable of measuring "Super-High Power Laser" (SHPL) system angular beam steering errors of equal to or less than 10 microradians;

3. Optical equipment, assemblies or components specially designed for a phased-array "SHPL" system for coherent beam combination to an accuracy of Lambda/10 at the designed wavelength, or 0.1 micrometre, whichever is the smaller;

4. Projection telescopes specially designed for use with SHPL systems;

(For shared aperture optical elements, capable of operating in "super-high power laser" applications, see item 23d. on the Munitions List.)

6A06 "Magnetometers", "magnetic gradiometers", "intrinsic magnetic gradiometers" and compensation systems, and specially designed components therefor, as follows:

a. "Magnetometers" using "superconductive", optically pumped or nuclear precession (proton/Overhauser) technology having a "noise level" (sensitivity) lower (better) than 0.05 nT rms per square root Hz;

b. Induction coil "magnetometers" having a "noise level" (sensitivity) lower (better) than:

1. 0.05 nT rms per square root Hz at frequencies of less than 1 Hz;

2. 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more but not exceeding 10 Hz; or

3. 1×10^{-4} nT rms per square root Hz at frequencies exceeding 10 Hz;

c. Fibre optic "magnetometers" having a "noise level" (sensitivity) lower (better) than 1 nT rms per square root Hz;

d. "Magnetic gradiometers" using multiple "magnetometers" embargoed by 6A06.a, b or c;

e. Fibre optic "intrinsic magnetic gradiometers" having a magnetic gradient field "noise level" (sensitivity) lower (better) than 0.3 nT/m rms per square root Hz;

f. "Intrinsic magnetic gradiometers", using technology other than fibre-optic technology, having a magnetic gradient field "noise level" (sensitivity) lower (better) than 0.015 nT/m rms per square root Hz;

g. Magnetic compensation systems for magnetic sensors designed for operation on mobile platforms;

h. "Superconductive" electromagnetic sensors, containing components manufactured from "superconductive" materials:

1. Designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents (including Josephson effect devices or "superconductive" quantum interference devices (SQUIDS));

2. Designed for sensing electromagnetic field variations at frequencies of 1 KHz or less, and:

3. Having any of the following characteristics:

a. Incorporating thin-film SQUIDS with a minimum feature size of less than 2 micrometres and with associated input and output coupling circuits;

b. Designed to operate with a magnetic field slew rate exceeding 1×10^{6} magnetic flux quanta per second;

c. Designed to function without magnetic shielding in the earth's ambient magnetic field; or

d. Having a temperature coefficient less (smaller) than 0.1 magnetic flux quantum/K;

Note: 6A06 does not embargo instruments specially designed for biomagnetic measurements for medical diagnostics, unless they incorporate unembedded sensors embargoed by 6A06.h.

6A07 Gravity meters (gravimeters) : and gravity gradiometers, as follows:

a. Gravity meters for ground use having a static accuracy of less (better) than 10 microgal, except ground gravity meters of the quartz element (Worden) type;

b. Gravity meters for mobile platforms for ground, marine, submersible, space or airborne use having:

1. A static accuracy of less (better) than 0.7 milligal; and

2. An in-service (operational) accuracy of less (better) than 0.7 milligal with a time-to-steady-state registration of less than 2 minutes under any combination of attendant corrective compensations and motional influences;

c. Gravity gradiometers.

6A08 Radar systems, equipment and assemblies having any of the following characteristics, and specially designed components therefor:

Note: 6A08 does not embargo:

a. Secondary surveillance radar (SSR);

b. Car radar designed for collision prevention;

c. Displays or monitors used for Air Traffic Control having no more than 12 resolvable elements per mm.

a. Operating at frequencies from 40 GHz to 230 GHz and having an average output power exceeding 100 mW;

b. Having a tunable bandwidth exceeding ± 6.25% of the centre operating frequency;

Technical Note: The centre operating frequency equals one half of the sum of the highest plus the lowest specified operating frequencies;

c. Capable of operating simultaneously on more than two carrier frequencies;

d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) or sidelooking airborne (SLAR) radar mode;

e. Incorporating "electronically steerable phased array antennae";

f. Capable of heightfinding non-cooperative targets;

Note: 6A08.f does not embargo:

a. Precision approach radar equipment (PAR) conforming with ICAO standards;

b. Meteorological (weather) radar.

g. Designed specially for airborne (balloon or airframe mounted) operation and having Doppler signal processing for the detection of moving targets;

h. Employing processing of radar signals using:

1. "Radar spread spectrum" techniques; or

2. "Radar frequency agility" techniques;

i. Providing ground-based operation with a maximum "instrumented range" exceeding 185 km;

Note: 6A08.i does not embargo fishing ground surveillance radar.

j. "Laser" radar or Light Detection and Ranging (LIDAR) equipment, as follows:

1. "Space-qualified"; or

2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 microradians;

Note: 6A08.j does not embargo LIDAR equipment specially designed for surveying or for meteorological observation.

k. Having signal processing subsystems using "pulse compression" with:

1. A "pulse compression" ratio exceeding 150; or

2. A pulse width of less than 200 ns;

1. Having data processing subsystems with:

1. "Automatic target tracking" providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage;

Note: 6A08.1.1 does not embargo conflict alert capability in air traffic control systems, or marine or harbour radar.

2. Calculation of target velocity from primary radar having non-periodic (variable) scanning rates;

3. Processing for automatic pattern recognition (feature extraction) and comparison with target characteristic data bases (waveforms or imagery) to identify or classify targets; or

4. Superposition and correlation or data fusion of target data from two or more "geographically dispersed" and "interconnected radar" sensors to enhance and discriminate targets;

Note: 6A08.1.4 does not embargo equipment used for marine traffic control.

B. Test, Inspection and Production Equipment

6B04 Optics.

Equipment for measuring absolute reflectance to an accuracy of ±0.1% of the reflectance value;

6B05 Lasers.

Specially designed or modified equipment, tools, dies, fixtures or gauges, as follows, and specially designed components and accessories therefor:

a. For the manufacture or inspection of:

1. Free electron "laser" magnet wigglers;

2. Free electron "laser" photo injectors;

b. For the adjustment, to required tolerances, of the longitudinal magnetic field of free electron "lasers";

6B07 Gravimeters.

Equipment to produce, align and calibrate land-based gravity meters with a static accuracy of better than 0.1 milligal;

6B08 Radar.

Pulse radar cross-section measurement systems having transmit pulse widths of 100 ns or less and specially designed components therefor;

C. Materials

6C02 Optical Sensors.

a. Elemental tellurium (Te) of purity levels equal to or more than 99.9995%;

b. Single crystals of cadmium telluride (CdTe) or mercury cadmium tellurium (CdHgTe) of any purity level, including epitaxial wafers thereof;

Technical Note: Purity verified in accordance with ASTM F574-83 standard or equivalents.

c. "Optical fibre preforms" specially designed for the manufacture of high birefringence fibres embargoed by 6A02.d.3;

6C04 Optics.

a. Zinc selenide (ZnSe) and zinc sulphide (ZnS) "substrate blanks" produced by the chemical vapour deposition process:

1. Larger than 100 cm^3 in volume; or

2. Larger than 80 mm in diameter with a thickness equal to or more than 20 mm;

b. Boules of the following electro-optic materials:

1. Potassium titanyl arsenate (KTA);

2. Silver gallium selenide ($AgGaSe^2$);

3. Thallium arsenic selenide (Tl_3AsSe_3, also known as TAS);

c. Non-linear optical materials with third order susceptibility (chi 3) having:

1. Equal to or less than 1 W/m^2; and

2. A response time of less than 1 ms;

d. "Substrate blanks" of silicon carbide or beryllium beryllium (Be/Be) deposited materials exceeding 300 mm in diameter or major axis length;

e. Low optical absorption materials, as follows:

1. Bulk fluoride compounds containing ingredients with a purity of 99.999% or better; or

Note: 6C04.e.1 embargoes fluorides of zirconium or aluminium and variants.

2. Bulk fluoride glass made from compounds embargoed by 6C04.e.1;

f. Glass, including fused silica, phosphate glass, fluorophosphate glass, zirconium fluoride (ZrF_4) and hafnium fluoride (HfF_4) with:

1. A hydroxil ion (OH^-) concentration of less than 5 ppm;

2. Integrated metallic purity levels of less than 1 ppm; and

3. High homogeneity (index of refraction variance) less than 5×10^{-6};

g. Synthetically produced diamond material with an absorption of less than 10^{-5} cm^{-1} for wavelengths exceeding 200 nm but not exceeding 14,000 nm;

h. "Optical fibre preforms" made from bulk fluoride compounds containing ingredients with a purity of 99.999% or better, specially designed for the manufacture of "fluoride fibres" embargoed by 6A04.f;

6C05 Lasers.

Crystalline "laser" host material in unfinished form, as follows:

a. Titanium doped sapphire;

b. Alexandrite;

D. Software

6D01 "Software" specially designed for the "development" or "production" of equipment embargoed by 6A04, A05, A08, or B08;

6D02 "Software" specially designed for the "use" of equipment embargoed by 6A02.b, A08, or B08;

6D03 Other "software", as follows.

a. *Acoustics.* 1. "Software" specially designed for acoustic beam forming for the real-time processing of acoustic data for passive reception using towed hydrophone arrays;

2. "Source code" for the "real-time processing" of acoustic data for passive reception using towed hydrophone arrays;

b. *Magnetometers.* 1. "Software" specially designed for magnetic compensation systems for magnetic sensors designed to operate on mobile platforms;

2. "Software" specially designed for magnetic anomaly detection on mobile platforms;

c. *Gravimeters.* "Software" specially designed to correct motional influences of gravity meters or gravity gradiometers;

d. *Radar.* 1. Air Traffic Control "software" application "programmes" hosted on general purpose computers located at Air Traffic Control centres and capable of any of the following:

a. Processing and displaying more than 150 simultaneous "system tracks";

b. Accepting radar target data from more than four primary radars; or

c. Handing over automatically primary radar target data (if not correlated with secondary surveillance radar (SSR) data) from the host ATC centre to another ATC centre;

2. "Software" for the design or "production" of radomes which:

a. Are specially designed to protect the "electronically steerable phased array antennae" embargoed by 6A08.e; and

b. Limit the average side-lobe level increase by less than 13 dB for frequencies equal to or higher than 2 GHz;

E. Technology

6E01 Technology according to the General Technology Note for the "development" of equipment, materials or "software" embargoed by 6A, B, C, or D.

6E02 Technology according to the General Technology Note for the "production" of equipment or materials embargoed by 6A, B, or C.

6E03 Other technology.

a. *Optics.* 1. Optical surface coating and treatment technology required to achieve uniformity of 99.5% or better for optical coatings 500 mm or more in diameter or major axis length and with a total loss (absorption and scatter) of less than 5×10^{-3};

2. Optical fabrication technologies, as follows:

a. For serially producing optical components at a rate exceeding 10 m^2 of surface area per year on any single spindle and with:

1. An area exceeding 1 m^2;

2. A surface figure exceeding lambda/10 rms at the designed wavelength;

b. Single point diamond turning techniques producing surface finish accuracies of better than 10 nm rms on non-planar surfaces exceeding 0.5 m^2; (See also Material Processing Category 2E3d)

b. *Lasers.* 1. Technology for optical filters with a bandwidth equal to or less than 10 nm, a field of view (FOV) exceeding 40° and a resolution exceeding 0.75 line pairs per mm;

2. "Technology" "required" for the "development", "production" or "use" of specially designed diagnostic instruments or targets in test facilities for SHPL testing or testing or evaluation of materials erradiated by SHPL beams;

c. Magnetometers. Technology "required" for the "development" or "production" of fluxgate "magnetometers" or fluxgate "magnetometer" systems having a noise level:

1. Less than 0.05 nT rms per root Hz at frequencies of less than 1 Hz; or

2. 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more;

Notes for Category 6

Acoustics

1. Governments may permit, as administrative exceptions, the shipment of equipment only embargoed by 6A01.a.1.b.4 for use in civil research or civil exploration work.

Optical Sensors

2. Governments may permit, as administrative exceptions, the shipment of "multispectral imaging sensors" embargoed only by 6A02.b.2.a and 6A02.b.2.b.2 provided the Instantaneous-Field-Of-View (IFOV) of the "multispectral imaging sensor" is equal to or more than 2.5 milliradians.

3. Governments may permit, as administrative exceptions, the shipment in reasonable quantities of non ruggedized image intensifier tubes embargoed by 6A02.a.2.a.3.a for bona fide medical use;

4. Governments may permit, as administrative exceptions, the shipment to COCOM agreed countries in reasonable quantities of non ruggedized equipment operating in the visible spectrum which is embargoed by 6A02.c and contains image intensifier tubes embargoed 6A02.a.2.a.3.a provided they are to be used for civil certified end-use by civil end-users.

5. The Committee will favourably consider the export in reasonable quantities of non ruggedized image intensifier tubes for equipment which is listed in the Note to 6A02.c.

6. Governments may permit, as administrative exceptions, the shipment of the following for installation and use at ground-based bona fide academic or civilian astronomical research sites or in international air- or space-based bona fide academic or civilian astronomical research projects:

For the stated end-use, a limit of:

a. One optical mirror embargoed by 6A04.a.1;

b. Three optical mirrors embargoed by 6A04.a.2;

c. Three optical mirrors embargoed by 6A04.a.4;

d. Three optical components embargoed by 6A04.b;

e. Ten optical filters embargoed by 6A04.d.1.a;

f. One piece of optical control equipment embargoed by 6A04.e.2 for each operational mirror;

g. Four pieces of optical control equipment embargoed by 6A04.e.4;

h. Three "substrate blanks" embargoed by 6C04.a;

i. A reasonable quantity of the bulk fluoride glass embargoed by 6C04.e.2;

j. A reasonable quantity of the materials embargoed by 6C04.f.

N.B.: The above limitations refer to specific projects.

Lasers

7. Governments may permit, as administrative exceptions, the shipment, for civil applications, of "lasers", as follows:

a. Neodymium-doped (other than glass), pulse-excited, "Q-switched lasers" embargoed by 6A05.c.2.c.2.b having:

1. A pulse duration equal to or more than 1 ns; and

2. A multiple-transverse mode output with a "peak power" not exceeding 400 MW;

b. Neodymium-doped (other than glass) "lasers" embargoed by 6A05.c.2.c.3.b or 6A05.c.2.c.4.b:

1. Having:

a. An output wavelength exceeding 1,000 nm but not exceeding 1,100 nm; and

b. An average or CW output power not exceeding 2 kW; and

2. Being:

a. Pulse-excited, non-"Q-switched" multiple-tranverse mode; or

b. Continuously excited, multiple-transverse mode;

c. Carbon dioxide "lasers" embargoed by 6A05.a.4:

1. Being in CW multiple-tranverse mode; and

2. Having a CW output power not exceeding 15 kW.

8. Governments may permit, as administrative exceptions, the shipments of optical equipment embargoed by 6A05.g if it is destined to be used with non-embargoed lasers or embargoed lasers which have been authorized by the Committee.

Radar

9. Governments may permit, as administrative exceptions, the shipment of ground radar equipment specially designed for enroute air traffic control, and "software" specially designed for the "use" thereof, provided:

a. It is embargoed only by 6A08.i;

b. It has a maximum "instrumented range" of 500 km or less;

c. It is configured so that the radar target data can be transmitted only one way from the radar site to one or more civil air traffic control centres;

d. It contains no provisions for remote control of the radar scan rate from the enroute traffic control centre; and

e. It is to be permanently installed under the supervision of the exporter or the exporter's Western agent, so that the "instrument range" and volumetric coverage of the radar encompasses an ICAO air route.

N.B. The "use" "software" must be limited to "object code" and the minimum amount of "source code" necessary for installation, operation or maintenance.

10. Governments may permit, as administrative exceptions, the shipment of Air Traffic Control "software" application "programmes" embargoed by 6D03.h.1, provided:

a. The number of "system tracks" does not exceed 700;

b. The number of primary radar inputs does not exceed 32; and

c. The "software" is further limited to "object code" and the minimum amount of "source code" necessary for installation, operation or maintenance.

11. Governments may permit, as administrative exceptions, the shipment to the People's Republic of China of the following equipment:

Acoustics

a. Acoustic systems or equipment for determining the position of surface vessels or underwater vehicles, provided:

1. They are not capable of processing responses from more than 8 beacons in the calculation of a point;

2. They do not have devices for correcting automatically speed-of-sound propagation errors for calculation of a point;

3. They do not use coherent "signal processing" between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle; and

4. Transducers, acoustic modules, beacons or hydrophones therefor are not designed to withstand pressures at depths exceeding 1,000 m;

b. Side-scan sub-bottom profile systems no portion of which is specially designed for operation at depths exceeding 1,000 m.

Optical Sensors

c. Image intensifier tubes incorporating microchannel-plates, not specially designed for cameras embargoed by 6A03;

N.B.: Note 11.c. does not apply to tubes incorporating a gallium arsenide (or similar semiconductor) photocathode.

d. "Optical fibre preforms" specially designed for the manufacture of silicon-based optical fibres, provided they are designed to produce non-militarised silicon-based optical fibres that are optimized to operate at 1,370 nm or less;

Cameras

e. Mechanical framing cameras embargoed by 6A03.a.2 designed for civil purposes (i.e., non-nuclear use) with a framing speed of not more than 2 million frames per second;

Lasers

f. "Tunable" pulsed flowing-dye "lasers" having all of the following, and specially designed components therefor:

1. An output wavelength less than 800 nm;

2. A "pulse duration" not exceeding 100 ns; and

3. A peak output power not exceeding 15 MW;

g. CO_2, CO or CO/CO_2 "lasers" having an output wavelength in the range from 9 to 11 micrometre, a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW or a CW maximum rated single or multimode output power not exceeding 10 kW;

h. Minimum quantities of semiconductor "lasers" designed and intended for use with a civil fibre optic communication system which would be either unembargoed or eligible for administrative exceptions treatment for China under Category 5A (Telecom), having an output wavelength not exceeding 1,370 nm and a CW power output not exceeding 100 mW.

Category 7—Navigation and Avionics

A. Equipment, Assemblies and Components

7A01 Accelerometers designed for use in inertial navigation or guidance systems and having any of the following characteristics, and specially designed components therefor.

a. A "bias" "stability" of less (better) than 130 micro g with respect to a fixed calibration value over a period of one year;

b. A "scale factor" "stability" of less (better) than 130 ppm with respect to a fixed calibration value over a period of one year;

c. Specified to function at acceleration levels exceeding 100 g;

7A02 Gyros having any of the following characteristics, and specially designed components therefor.

a. A "drift rate" "stability", when measured in a 1 g environment over a period of three months and with respect to a fixed calibration value, of:

1. Less (better) than 0.1° per hour when specified to function continuously below 10 g; or

2. Less (better) than 0.5° per hour when specified to function from 10 to 100 g inclusive;

b. Specified to function at acceleration levels above 100 g;

7A03 Inertial navigation systems (gimballed and strapdown) and inertial equipment for attitude, guidance or control having any of the following characteristics, and specially designed components therefor.

a. *For "aircraft":* 1. Navigation error (free inertial) of 0.8 nautical mile per hour (50% Circular Error Probable (CEP)) or less (better) subsequent to normal alignment;

2. Not certified for use on "civil aircraft" by civil aviation authorities of a member country; or

3. Specified to function at acceleration levels exceeding 10 g;

b. *For land or "spacecraft":* 1. Navigation error (free inertial) of 0.8 nautical mile per hour (50% CEP) or less (better) subsequent to normal alignment; or

2. Specified to function at acceleration levels exceeding 10 g;

7A04 Gyro-astro compasses, and other devices which derive position or orientation by means of automatically tracking celestial bodies or satellites, with an azimuth accuracy of equal to or less (better) than 5 seconds of arc.

7A05 Global Positioning Satellite (GPS) receiving equipment having either of the following characteristics, and specially designed components therefor.

a. Employing encryption/decryption; or

b. A null-steerable antenna;

7A06 Airborne altimeters operating at frequencies other than 4.2 to 4.4 GHz inclusive, having either of the following characteristics:

a. "Power management"; or

b. Using phase shift key modulation;

(For automatic pilots for underwater vehicles, see Category 8. For radar, see Category 6. For inertial navigation equipment for ships or submersibles, see ITAR Category XI.)

B. Test, Inspection and Production Equipment

7B01 Test, calibration or alignment equipment specially designed for equipment embargoed by 7.A, except equipment for Maintenance Level I or Maintenance Level II.

Technical Notes

1. *Maintenance Level I:*

The failure of an inertial navigation unit is detected on the aircraft by indications from the Control and Display Unit (CDU) or by the status message from the corresponding sub-system. By following the manufacturer's manual, the cause of the failure may be localized at the level of the malfunctioning line replaceable unit (LRU). The operator then removes the LRU and replaces it with a spare.

2. *Maintenance Level II:*

The defective LRU is sent to the maintenance workshop (the manufacturer's or that of the operator responsible for level II maintenance). At the maintenance workshop, the malfunctioning LRU is tested by various appropriate means to verify and localize the defective module shop replaceable assembly (SRA) responsible for the failure. This SRA is removed and replaced by an operative spare.

The defective SRA (or possibly the complete LRU) is then shipped to the manufacturer.

N.B.: Maintenance Level II does not include the removal of embargoed accelerometers or gyro sensors from the SRA.

7B02 Equipment, as follows, specially designed to characterize mirorrs for ring "laser" gyros.

a. Scatterometers having a measurement accuracy of 10 ppm or less (better);

b. Profilometers having a measurement accuracy of 0.5 nm (5 angstrom) or less (better).

7B03 Equipment specially designed for the production of equipment embargoed by 7A, including:

a. Gyro tuning test stations;
b. Gyro dynamic balance stations;
c. Gyro run-in/motor test stations;
d. Gyro evacuation and fill stations;
e. Centrifuge fixtures for gyro bearings;
f. Accelerometer axis align stations;

C. Materials (None)

D. "Software"

7D01 "Software" specially designed or modified for the "development" or "production" of equipment embargoed by 7A or 7B.

7D02 "Source code" for the "use" of any inertial navigation equipment or Attitude Heading Reference Systems (AHRS) (except gimballed AHRS) including inertial equipment not embargoed by 7A03 or 7A04.

Technical Note: AHRS generally differ from inertial navigation systems (INS) in that AHRS provides attitude heading information and normally does not provide the acceleration, velocity and position information associated with INS.

7D03 Other "software", as follows:

a. "Software" specially designed or modified to improve the operational performance or reduce the navigational error of systems to the levels specified in 7A03 or 7A04;

b. "Source code" for hybrid integrated systems which improves the operational performance or reduces the navigational error of systems to the level specified in 7A03 by continuously combining inertial data with any of the following navigation data:

1. Doppler radar velocity;
2. Global Positioning Satellite (GPS) references or;
3. Terrain data base;

c. "Source code" for integrated avionics or mission systems which combine sensor data and employ knowledge-based expert systems;

d. "Source code" for the "development" of:

1. Digital flight management systems for flight path optimization;
2. Integrated propulsion and flight control systems;
3. Fly-by-wire or fly-by-light control systems;
4. Fault-tolerant or self-reconfiguring "active flight control systems";
5. Airborne automatic direction finding equipment;
6. Air data systems based on surface static data;
7. Raster-type head-up displays or three dimensional displays;

E. Technology

7E01 Technology according to the General Technology Note for the "development" of equipment or "software" embargoed by 7A, 7B, or 7D.

7E02 Technology according to the General Technology Note for the "production" of equipment embargoed by 7A or 7B.

7E03 Technology according to the General Technology Note for the repair, refurbishing or overhaul of equipment embargoed by 7A01 to 7A04, except for maintenance technology directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units (LRU) and shop replaceable assemblies (SRA) of a "civil aircraft" as described in Maintenance Level I or Maintenance Level II.

(See Technical Notes to 7B01.)

7E04 Other technology.

a. Technology for the "development" or "production" of:

1. Airborne automatic direction finding equipment operating at frequencies exceeding 5 MHz;
2. Air data systems based on surface static data only, i.e., which dispense with conventional air data probes;
3. Raster-type head-up displays or three dimensional displays for "aircraft";
4. Inertial navigation systems or gyro-astro compasses containing accelerometers or gyros embargoed by 7A01 or 7A02;

b. "Development" technology, as follows, for "active flight control systems" (including fly-by-wire or fly-by-light):

1. Configuration design for interconnecting multiple microelectronic processing elements (on-board computers) to achieve "real time processing" for control law implementation;
2. Control law compensation for sensor location or dynamic airframe loads, i.e., compensation for sensor vibration environment or for variation of sensor location from the centre of gravity;
3. Electronic management of data redundancy or systems redundancy for fault detection, fault tolerance, fault isolation or reconfiguration;

Note: 7E04.b.3 does not embargo technology for the design of physical redundancy.

4. Flight controls which permit inflight reconfiguration of force and moment controls for real time autonomous air vehicle control;
5. Integration of digital flight control, navigation and propulsion control data into a digital flight management system for flight path optimization, except "development" technology for aircraft flight instrument systems integrated solely for VOR, DME, ILS or MLS navigation or approaches; or
6. Full authority digital flight control or multisensor mission management systems incorporating knowledge-based expert systems;

(For technology for Full Authority Digital Engine Control (FADEC), see Category 9E03.a.10.)

c. Technology for the "development" of helicopter systems as follows:

1. Multi-axis fly-by-wire or fly-by-light controllers which combine the functions of at least two of the following into one controlling element:
a. Collective controls;
b. Cyclic controls;
c. Yaw controls;
2. "Circulation-controlled anti-torque or circulation-controlled directional control systems";
3. Rotor blades incorporating "variable geometry airfoils" for use in systems using individual blade control.

Category 8—Marine Technology

A. Equipment, Assemblies and Components

8A01 Submersible vehicles or surface vessels.

a. Manned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m;

b. Manned, untethered submersible vehicles:

1. Designed to "operate autonomously" and having a lifting capacity of:
a. 10% or more of their weight in air; and
b. 15 kN or more;
2. Designed to operate at depths exceeding 1,000 m; or
3. a. Designed to carry a crew of 4 or more;
b. Designed to "operate autonomously" for 10 hours or more;

c. Having a "range" of 25 nautical miles or more; and

d. Having a length of 21 m or less;

c. Unmanned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m:

1. Designed for self-propelled manoeuvre using propulsion motors or thrusters embargoed by 8A02.a.2; or

2. Having a fibre optic data link;

d. Unmanned, untethered submersible vehicles:

1. Designed for deciding a course relative to any geographical reference without real-time human assistance;

2. Having an acoustic data or command link; or

3. Having a fibre optic data or command link exceeding 1,000 m;

Note: For the embargo status of equipment for submersible vehicles, see:
Category 5B for encrypted communication equipment;
Category 6 for sensors;
Categories 7 and 8 for navigation equipment;
Category 8A. for underwater equipment.

e. Ocean salvage systems with a lifting capacity exceeding 5 MN for salvaging objects from depths exceeding 250 m and having either of the following:

1. Dynamic positioning systems capable of position keeping within 20 m of a given point provided by the navigation system; or

2. Seafloor navigation and navigation integration systems for depths exceeding 1,000 m with positioning accuracies to within 10 m of a predetermined point;

f. Surface-effect vehicles (fully skirted variety) with a maximum design speed, fully loaded, exceeding 30 knots in a significant wave height of 1.25 m (Sea State 3) or more, a cushion pressure exceeding 3,830 Pa, and a light-ship-to-full-load displacement ratio of less than 0.70;

g. Surface-effect vehicles (rigid sidewalls) with a maximum design speed, fully loaded, exceeding 40 knots in a significant wave height of 3.25 m (Sea State 5) or more;

h. Hydrofoil vessels with active systems for automatically controlling foil systems, with a maximum design speed, fully loaded, of 40 knots or more in a significant wave height of 3.25 m (Sea State 5) or more;

i. Small waterplane area vessels with:

1. A full load displacement exceeding 500 tonnes with a maximum design speed, fully loaded, exceeding 35 knots in a significant wave height of 3.25 m (Sea State 5) or more; or

2. A full load displacement exceeding 1,500 tonnes with a maximum design speed, fully loaded, exceeding 25 knots in a significant wave height of 4 m (Sea State 6) or more;

Technical Note: A small waterplane area vessel is defined by the following formula: waterplane area at an operational design draft less than 2 × (displaced volume at the operational design draft)⅔.

8A02 Systems or equipment.

a. Systems or equipment, specially designed or modified for submersible vehicles, designed to operate at depths exceeding 1,000 m, as follows:

1. Pressure housings or pressure hulls with a maximum inside chamber diameter exceeding 1.5 m;

2. Direct current propulsion motors or thrusters;

3. Umbilical cables, and connectors therefor, using optical fibre and having synthetic strength members;

b. Systems specially designed or modified for the automated control of the motion of equipment for submersible vehicles embargoed by 8A01 using navigation data and having closed loop servo-controls to:

1. Enable a vehicle to move within 10 m of a predetermined point in the water column;

2. Maintain the position of the vehicle within 10 m of a predetermined point in the water column; or

3. Maintain the position of the vehicle within 10 m while following a cable on or under the seabed;

c. Fibre optic hull penetrators or connectors;

d. Underwater vision systems.

1. a. Television systems (comprising camera, lights, monitoring and signal transmission equipment) having a limiting resolution when measured in air of more than 500 lines and specially designed or modified for remote operation with a submersible vehicle; or

b. Underwater television cameras having a limiting resolution when measured in air of more than 700 lines;

Technical Note: Limiting resolution in television is a measure of horizontal resolution usually expressed in terms of the maximum number of lines per picture height discriminated on a test chart, using IEEE Standard 208/1960 or any equivalent standard.

2. Systems, specially designed or modified for remote operation with an underwater vehicle, employing techniques to minimise the effects of back scatter, including range-gated illuminators or "laser" systems;

3. Low light level television cameras specially designed or modified for underwater use containing:

a. Image intensifier tubes embargoed by 6A02.a.2; and

b. More than 150,000 "active pixels" per solid state area array;

e. Photographic still cameras specially designed or modified for underwater use, having a film format of 35 mm or larger, and:

1. Annotating the film with data provided by a source external to the camera;

2. Having autofocussing or remote focussing specially designed for underwater use;

3. Having automatic back focal distance correction; or

4. Having automatic compensation control specially designed to permit an underwater camera housing to be usable at depths exceeding 1,000 m;

f. Electronic imaging systems, specially designed or modified for underwater use, capable of storing digitally more than 50 exposed images;

g. Light systems, as follows, specially designed or modified for underwater use:

1. Stroboscopic light systems capable of a light output energy of more than 300 J per flash;

2. Argon arc light systems specially designed for use below 1,000 m;

h. "Robots" specially designed for underwater use, controlled by using a dedicated stored programme computer, and:

1. Having systems that control the "robot" using information from sensors which measure force or torque applied to an external object, distance to an external object, or tactile sense between the "robot" and an external object; or

2. Capable of exerting a force of 250 N or more or a torque of 250 Nm or more and using titanium based alloys or "fibrous and filamentary" "composite" materials in their structural members;

i. Remotely controlled articulated manipulators specially designed or modified for use with submersible vehicles and having either of the following characteristics:

1. Systems which control the manipulator using the information from sensors which measure the torque or force applied to an external object, or tactile sense between the manipulator and an external object; or

2. Controlled by proportional master-slave techniques or by using a dedicated stored programme computer, and having 5 degrees of freedom of movement or greater;

N.B. Only functions having proportional control using positional feedback or by using a dedicated stored programme computer are counted when determining the number of degrees of freedom of movement.

j. Air-independent power systems, as follows, specially designed for underwater use:

1. Brayton, Stirling or Rankine Cycle Engine air independent power systems having any of the following:

a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

b. Systems specially designed to use a monoatomic gas;

c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; or

d. Systems specially designed:

1. To pressurise the products of reaction or for fuel reformation;

2. To store the products of the reaction; and

3. To discharge the products of the reaction against a pressure of 100 kPa or more;

2. Diesel Cycle Engine air-independent systems, having all of the following:

a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

b. Systems specially designed to use a monoatomic gas;

c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; and

d. Specially designed exhaust systems that do not exhaust continuously the products of combustion;

3. Fuel cell air-independent power systems with an output exceeding 2 kW having either of the following:

a. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; or

b. Systems specially designed:

1. To pressurise the products of reaction or for fuel reformation;

2. To store the products of the reaction; and

3. To discharge the products of the reaction against a pressure of 100 kPa or more;

k. Skirts, seals and fingers,

1. Designed for cushion pressures of 3,830 Pa or more, operating in a significant wave height of 1.25 m (Sea State 3) or more and specially designed for surface effect vehicles (fully skirted variety) embargoed by 8A01.f;

2. Designed for cushion pressures of 6,224 Pa or more, operating in a significant wave height of 3.25 m (Sea State 5) or more and specially designed for surface effect vehicles (rigid sidewalls) embargoed by 8A01.g;

1. Lift fans rated at more than 400 kW specially designed for surface effect vehicles embargoed by 8A01.f or 8A01.g;

m. Fully submerged subcavitating or supercavitating hydrofoils specially designed for vessels embargoed by 8A01.h;

n. Active systems specially designed or modified to control automatically the sea-induced motion of vehicles or vessels embargoed by 8A01.f, g, h or i;

o. 1. Water-screw propeller or power transmission systems, as follows, specially designed for surface effect vehicles (fully skirted or rigid sidewall variety), hydrofoils or small waterplane area vessels embargoed by 8A01.f, g, h or i:

a. Supercavitating, super-ventilated, partially submerged or surface piercing propellers rated at more than 7.5 MW;

b. Contrarotating propeller systems rated at more than 15 MW;

c. Systems employing pre-swirl or post-swirl techniques for smoothing the flow into a propeller;

d. Light-weight, high capacity (K factor exceeding 300) reduction gearing;

e. Power transmission shaft systems, incorporating "composite" material components, capable of transmitting more than 1 MW;

2. Water-screw propeller, power generation or transmission systems for use on vessels.

a. Controllable-pitch propellers and hub assemblies rated at more than 30 MW;

b. Internally liquid-cooled electric propulsion engines with a power output exceeding 2.5 MW;

c. "Superconductive" propulsion engines, or permanent magnet electric propulsion engines, with a power output exceeding 0.1 MW;

d. Power transmission shaft systems, incorporating "composite" material components, capable of transmitting more than 2 MW;

e. Ventilated or base-ventilated propeller systems rated at more than 2.5 MW;

3. Noise reduction systems for use on vessels of 1,000 tonnes displacement or more, as follows:

a. Noise reduction systems that attenuate at frequencies below 500 Hz and consist of compound acoustic mounts for the acoustic isolation of diesel engines, diesel generator sets, gas turbines, gas turbine generator sets, propulsion motors or propulsion reduction gears, specially designed for sound or vibration isolation, having an intermediate mass exceeding 30% of the equipment to be mounted;

b. Active noise reduction or cancellation systems, or magnetic bearings, specially designed for power transmission systems, and incorporating electronic control systems capable of actively reducing equipment vibration by the generation of anti-noise or anti-vibration signals directly to the source;

p. Pumpjet propulsion systems with a power output exceeding 2.5 MW using divergent nozzle and flow conditioning vane techniques to improve propulsive efficiency or reduce propulsion-generated underwater-radiated noise;

For underwater communications systems, see Category 5A.)

B. Test, Inspection and Production Equipment

8B01 Water tunnels, having a background noise of less than 100 dB (reference 1 microPascal, 1 Hz) in the frequency range from 0 to 500 Hz, designed for measuring acoustic fields generated by a hydro-flow around propulsion system models.

C. Materials

8C01 Syntactic foam for underwater use.

a. Designed for marine depths exceeding 1,000 m; and

b. With a density less than 561 kg/m^3.

Technical Note: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix.

D. Software

8D01 "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials embargoed by 8A, B, or C.

8D02 Specific "software" specially designed or modified for the "development", "production", repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction.

E. Technology

8E01 Technology according to the General Technology Note for the "development" or "production" of equipment or materials embargoed by 8A, B, or C.

8E02 Other technology.

a. Technology for the "development", "production", repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction;

b. Technology for the overhaul or refurbishing of equipment embargoed by 8A01, 8A02.b, j, o, or p.

Note for Category 8:

Governments may permit, as administrative exceptions, the shipment for civil end-uses (e.g., underwater oil, gas or mining operations) of manipulators

embargoed by 8A02.i.2 having 5 degrees of freedom of movement.

Category 9—Propulsion Systems

A. Equipment, Assemblies and Components

(For systems designed or rated against neutron or transient ionizing radiation, see the ITAR.)

9A01 Aero gas turbine engines incorporating any of the technologies embargoed by 9E03.a, and:

a. Not certified for the specific "civil aircraft" for which they are intended;

Note: For the purpose of the "civil aircraft" certification process, a limited number of civil certified engines, assemblies or components may be exported as determined by Member Governments. This limited number is defined as the minimum required (up to 16, including spares) for civil certification.

b. Not certified for civil use by the aviation authorities in a member country;

c. Designed to cruise at speeds exceeding Mach 1.2 for more than thirty minutes.

9A02 Marine gas turbine engines with an ISO standard continuous power rating of 13,795 kW or more and a specific fuel consumption of less than 0.243 kg/kW-hr, and specially designed assemblies and components therefor.

9A03 Specially designed assemblies and components, incorporating any of the technologies embargoed by 9E03.a, for the following gas turbine engine propulsion systems:

a. Embargoed by 9A01; or

b. Whose design or production origins are either proscribed countries or unknown to the manufacturer.

Note: 9A03 does not embargo multiple domed combustors operating at average burner outlet temperatures equal to or less than 1,813 K (1,5400 °C).

9A04 Space launch vehicles or "spacecraft" (not including their payloads).

Note: For the embargo status of products contained in "spacecraft" payloads, see the appropriate Core List Category.

9A05 Systems or components, as follows, specially designed for liquid rocket propulsion systems.

a. Cryogenic refrigerators, flightweight dewars, cryogenic heat pipes or cryogenic systems specially designed for use in space vehicles and capable of restricting cryogenic fluid losses to less than 30% per year;

b. Cryogenic containers or closed-cycle refrigeration systems capable of providing temperatures of 100 K (−173 °C) or less for "aircraft" capable of sustained flight at speeds exceeding Mach 3, launch vehicles or "spacecraft";

c. Slush hydrogen storage or transfer systems;

d. High pressure (exceeding 17.5 MPa) turbo pumps, pump components or their associated gas generator or expander cycle turbine drive systems;

e. High-pressure (exceeding 10.6 MPa) thrust chambers and nozzles therefor;

f. Propellant storage systems using the principle of capillary containment or positive expulsion (i.e. with flexible bladders).

9A06 Liquid rocket propulsion systems containing any of the systems or components embargoed by 9A05.

9A07 Components, as follows, specially designed for solid rocket propulsion systems.

a. Insulation and propellant bonding systems using liners to provide a strong mechanical bond or a barrier to chemical migration between the solid propellant and case insulation material;

b. Filament-wound "composite" motor cases exceeding 0.61 m in diameter or having structural efficiency ratios (PV/W) exceeding 25 km;

Technical Note: The structural efficiency ratio (PV/W) is the burst pressure (P) multiplied by the vessel volume (V) divided by the total pressure vessel weight (W).

c. Nozzles with thrust levels exceeding 45 kN or nozzle throat erosion rates of less than 0.075 mm/s;

d. Movable nozzle or secondary fluid injection thrust vector control systems capable of:

1. Omni-axial movement exceeding ±5 °;

2. Angular vector rotations of 20 °/s or more; or

3. Angular vector accelerations of 40 °/s² or more.

9A08 Solid rocket propulsion systems with any of the following:

a. 1. Total impulse capacity exceeding 1.1 MNs; or

2. Specific impulse of 2.4 kNs/kg or more when the nozzle flow is expanded to ambient sea level conditions for an adjusted chamber pressure of 7 MPa.

b. 1. Stage mass fractions exceeding 88%; and

2. Propellant solid loadings exceeding 86%.

c. Any of the components embargoed by 9A07; or

d. Insulation and propellant bonding systems using direct-bonded motor designs to provide a strong mechanical bond or a barrier to chemical migration between the solid propellant and case insulation material.

Note: For the purposes of 9A07.a and 9A08.d, a strong mechanical bond means bond strength equal to or more than propellant strength.

9A09 Hybrid rocket propulsion systems with:

a. Total impulse capacity exceeding 1.1 MNs; or

b. Thrust levels exceeding 220 kN in vacuum exit conditions.

9A10 Specially designed components or structures, for launch vehicles or launch vehicle propulsion systems, manufactured using metal "matrix" "composite", organic "composite", ceramic "matrix" or intermetallic reinforced materials embargoed by 2C07 or 2C10.

9A11 Ramjet, scramjet or combined cycle engines and specially designed components therefor.

B. Test, Inspection and Production Equipment

9B01 Specially designed equipment, tooling or fixtures, as follows, for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

a. Automated equipment using non-mechanical methods for measuring airfoil wall thickness;

b. Tooling, fixtures or measuring equipment for the "laser", water jet or ECM/EDM hole drilling processes embargoed by 9E03.c;

c. Directional solidification or single crystal casting equipment;

d. Ceramic cores or shells;

e. Ceramic core manufacturing equipment or tools;

f. Ceramic core leaching equipment;

g. Ceramic shell wax pattern preparation equipment;

h. Ceramic shell burn out or firing equipment.

9B02 On-line (real time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for the "development" of gas turbine engines, assemblies or components incorporating technologies embargoed by 9E03.a.

9B03 Equipment specially designed for the production or test of gas turbine

brush seals designed to operate at tip speeds exceeding 335 m/s, and specially designed parts or accessories therefor.

9B04 Tools, dies or fixtures for the solid state joining of gas turbine "superalloy" or titanium components.

9B05 On-line (real-time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for use with the following wind tunnels or devices:

a. Wind tunnels designed for speeds of Mach 1.2 or more, except those specially designed for educational purposes and having a test section size (measured laterally) of less than 250 mm;

Technical Note: Test section size: the diameter of the circle, or the side of the square, or the longest side of the rectangle at the largest test section location.

b. Devices for simulating flow-environments at speeds exceeding Mach 5, including hot-shot tunnels, plasma arc tunnels, shock tubes, shock tunnels, gas tunnels and light gas guns;

c. Wind tunnels or devices, other than two-dimensional sections, capable of simulating Reynolds number flows exceeding 25×10^6

9B06 Specially designed acoustic vibration test equipment capable of producing sound pressure levels of 160 dB or more (referenced to 20 micropascals) with a rated output of 4 kW or more at a test cell temperature exceeding 1273 K (1000 °C), and specially designed transducers, strain gauges, accelerometers, thermocouples or quartz heaters therefor.

9B07 Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

9B08 Transducers specially designed for the direct measurement of the wall skin friction of the test flow with a stagnation temperature exceeding 833 K (560 °C).

9B09 Tooling specially designed for producing turbine engine powder metallurgy rotor components capable of operating at stress levels of 60% of ultimate tensile strength (UTS) or more and metal temperatures of 873 K (600 °C) or more.

D. Software

9D01 "Software" "required" for the "development" of equipment or technology embargoed by 9A, 9B, or 9E03.

9D02 "Software" "required" for the "production" of equipment embargoed by 9A or 9B.

9D03 "Software" "required" for the "use" of full authority digital electronic engine controls (FADEC) for propulsion systems embargoed by 9A or equipment embargoed by 9B, as follows:

a. "Software" in digital electronic controls for propulsion systems, aerospace test facilities or air breathing aero-engine test facilities;

b. Fault-tolerant "software" used in FADEC systems for propulsion systems and associated test facilities.

9D04 Other "software".

a. "Software" specially designed for vibration test equipment using real time digital controls with individual exciters (thrusters) with a maximum thrust exceeding 100 kN;

b. 2D or 3D viscous "software" validated with wind tunnel or flight test data "required" for detailed engine flow modelling;

c. "Software" "required" for the "development" or "production" of real time full authority electronic test facility for engines or components embargoed by 9A;

d. "Software" for testing aero gas turbine engines, assemblies or components, specially designed to collect, reduce and analyse data in real time, and capable of feedback control, including the dynamical adjustment of test articles or test conditions, as the test is in progress;

e. "Software" specially designed to control directional solidification or single crystal casting;

f. "Software" in "source code", "object code" or machine code "required" for the "use" of active compensating systems for rotor blade tip clearance control.

Note: 9D04.f does not embargo "software" embedded in unembargoed equipment or "required" for maintenance activities associated with the calibration or repair or updates to the active compensating clearance control system.

E. Technology

9E01 Technology according to the General Technology Note for the "development" of equipment or "software" embargoed by 9A01.c, 9A04 to 9A11, 9B, or 9D.

9E02 Technology according to the General Technology Note for the "production" of equipment embargoed by 9A01.c, 9A04 to 9A11, or 9B.

Note: "Development" or "production" technology embargoed by 8.E. for gas turbine engines remains embargoed when used as "use" technology for repair, rebuild and overhaul. Excluded from embargo are: technical data, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units, including replacement of whole engines or engine modules.

(For technology for the repair of embargoed structures, laminates or materials, see 1E02.f)

9E03 Other technology.

a. Technology "required" for the "development" or "production" of the following gas turbine engine components or systems:

1. Directionally solidified gas turbine blades, vanes or tip shrouds rated to operate at gas path temperatures exceeding 1,593 K (1,320 °C);

2. Single crystal blades, vanes or tip shrouds;

Note: The technologies embargoed by 9E03.a.1 and 9E03.a.2 will remain embargoed until the 30th November, 1992 unless the expiration date of the embargo period is extended.

3. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1370 °C), or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

4. Components manufactured from organic "composite" materials designed to operate above 588 K (315 °C), or from metal "matrix" "composite", ceramic "matrix", intermetallic or intermetallic reinforced materials embargoed by 1A02 or 1C07;

5. Uncooled turbine blades, vanes, tip-shrouds or other components designed to operate at gas path temperatures of 1,323 K (1,050 °C) or more;

6. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E03.a.1 and 9E03.a. 2, exposed to gas path temperatures of 1,643 K (1,370 °C) or more;

7. Airfoil-to-disk blade combinations using solid state joining;

8. Gas turbine engine components using "diffusion bonding" technology embargoed by 1E03.b;

9. Damage tolerant gas turbine engine rotating components using powder metallurgy materials embargoed by 1C02.b;

10. Full authority digital electronic engine controls (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

11. Adjustable flow path geometry and associated control systems for:

a. Gas generator turbines;

b. Fan or power turbines;

c. Propelling nozzles;

Note: 1. Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

Note: 2. 9E03.a.11. does not embargo "development" or "production" technology for adjustable flow path geometry for reverse thrust.

12. Rotor blade tip clearance control systems employing active compensating casing technology limited to a design and development data base;

13. Gas bearings for gas turbine engine rotor assemblies;

14. Wide chord hollow fan blades without part-span support.

b. Technology "required" for the "development" or "production" of:

1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system;

2. "Composite" propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55.

c. Technology "required" for the "development" or "production" of gas turbine engine components using "laser", water jet or ECM/EDM hole drilling processes to produce holes with:

1. a. Depths more than four times their diameter;

b. Diameters less than 0.76 mm; and

c. Incidence angles equal to or less than 25 °; or

2. a. Depths more than five times their diameter;

b. Diameters less than 0.4 mm; and

c. Incidence angles of more than 25 °;

Technical Note: For the purposes of 9E03.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. Technology "required" for the "development" or "production" of helicopter power transfer systems or tilt rotor or tilt wing "aircraft" power transfer systems:

1. Capable of loss-of-lubrication operation for 30 minutes or more; or

2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg.

e. 1. Technology for the "development" or "production" of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

a. A box volume of 1.2 m^3 or less;

b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and

c. A power density of more than 700 kW/m^3 of box volume.

Technical Note:

Box volume: The product of three perpendicular dimensions measured in the following way:

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing.

Height: The largest of the following:

a. The dimension of the crankshaft centre-line to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

2. Technology "required" for the "production" of specially designed components, as follows, for "high output diesel engines":

a. Technology "required" for the "production" of engine systems having all of the following components employing ceramics materials embargoed by 1C07:

1. Cylinder liners;

2. Pistons;

3. Cylinder heads; and

4. One or more other components (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors).

b. Technology "required" for the "production" of turbocharger systems, with single-stage compressors having all of the following:

1. Operating at pressure ratios of 4:1 or higher;

2. A mass flow in the range from 30 to 130 kg per minute; and

3. Variable flow area capability within the compressor or turbine sections.

c. Technology "required" for the "production" of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8@C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8@C)), having all of the following:

1. Injection amount in excess of 230 mm^3 per injection per cylinder;

2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors.

3. Technology "required" for the "development" or "production" of "high output diesel engines" for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450 °C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

Note For Category 9

Governments may permit, as administrative exceptions, the shipment of marine gas turbine engines embargoed by 9A02, for installation in civil marine vessels for civil end-use, provided that their specific fuel consumption exceeds 0.23 kg/kW-hr and their continuous 150 rating is less than 20,000 kW.

Dated: June 26, 1991.

James M. LeMunyon,

Deputy Assistant Secretary, for Export Administration.

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Friday
July 5, 1991

Part III

Resolution Trust Corporation

12 CFR Part 1618

Suspension and Exclusion of Registered Contractors and Recission of Contractors; Rule

RESOLUTION TRUST CORPORATION

12 CFR Part 1618

RIN 3205-AA09

Suspension and Exclusion of Registered Contractors and Rescission of Contracts

AGENCY: Resolution Trust Corporation.

ACTION: Interim final rule; request for comments.

SUMMARY: On April 10, 1991, the Resolution Trust Corporation ("RTC") adopted interim procedures for suspending or excluding registered contractors from RTC contracting and rescinding contracts for violations of section 501(p) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") and 12 CFR part 1606. Notice was published in the **Federal Register** on April 25, 1991 (55 FR 19130) informing current and prospective contractors of the availability of the procedures for inspection and copying.

The RTC now promulgates an interim final rule prescribing standards and procedures pertaining to the suspension or exclusion from RTC contracting of contractors, subcontractors and related entities and key employees of contractors and/or rescission of awarded contracts of contractors who have violated section 1441p of FIRREA and the regulations at 12 CFR part 1606 and for unsatisfactory contract performance. At the same time, this rule is designed to inform contractors, subcontractors, related entities and key employees regarding their rights to notice and an opportunity to be heard on RTC suspension and exclusion actions.

DATES: This interim final rule is effective July 5, 1991. Comments must be received by October 3, 1991.

ADDRESSES: Written comments regarding the interim rule should be addressed to John M. Buckley, Jr., Executive Secretary, Resolution Trust Corporation, 801 Seventeenth Street NW., Washington, DC 20434-0001. Comments may be hand-delivered to room 314 on business days between 8:30 a.m. and 5 p.m. Comments may also be inspected in the Public Reading Room between 8:30 a.m. and 5 p.m. on business days. (FAX number: 202-659-4753).

FOR FURTHER INFORMATION CONTACT: Charles M. Loveless, Senior Ethics Specialist, Office of Contractors' Ethics, 202-416-4396, or Carl J. Gold, Senior Counsel, Legal Division, 202-416-7327, Resolution Trust Corporation, 801 Seventeenth Street NW., Washington, DC 20434-0001. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

FIRREA at 12 U.S.C. 1441a(p)(1) through (p)(8) requires RTC to prohibit any person who does not meet minimum standards of competence, experience, integrity and fitness from entering into any contract with or performing any service for RTC and authorizes RTC to rescind awarded contracts when there is a failure to meet the minimum regulatory standards. Regulations implementing these statutory directives were published on February 14, 1990 at 12 CFR part 1606 (55 FR 5346).

The interim final regulation that is being adopted herein, to be codified at 12 CFR part 1618, sets forth standards and procedures governing suspension and exclusion of RTC contractors, subcontractors, related entities and key employees and rescission of awarded contracts of contractors for violations of 12 CFR part 1606 and for unsatisfactory contract performance. For the most part, the rule closely follows the suspension and debarment procedures utilized by other Federal entities which have been developed after extensive public comment and have withstood considerable judicial scrutiny. However, as discussed below, the rule departs in certain respects from the procedures used by other Federal entities due to the exigencies of the savings and loan crisis and the unique needs and concerns of the RTC as mandated by FIRREA.

The rule provides for more expedited and, under various circumstances, less formal procedures than are generally employed by Federal agencies while, at the same time, satisfying minimum due process requirements. These expedited procedures are necessary due to the urgent need to protect the RTC and the public interest against further dissipation of the assets now under RTC control as a consequence of the resolution of hundreds of failed savings associations. Furthermore, many RTC contractors have in their possession extremely valuable documents and legal instruments which can be readily converted to private gain.

FIRREA has imposed a duty on the RTC to be vigilant and aggressive in enforcing the highest ethical standards for its independent contractors. Accordingly, it is imperative that contractor enforcement proceedings be processed as expeditiously as possible consistent with minimum due process requirements.

Definitions

The definitions are generally based on commonly accepted definitions used in 12 CFR part 1606 or by other Federal entities. However, *contractor* is defined to also include subcontractors, related entities and key employees of the contractor. *Contracts* is defined to encompass contracts between a contractor and any of its subcontractors, as well as contracts between the RTC and prime contractors.

Causes for Exclusion

While the grounds for exclusion generally reflect the various requirements of FIRREA and 12 CFR part 1606, they also include conviction or civil judgment for certain offenses that bear on fitness and integrity. Moreover, they include a history of unsatisfactory performance on one or more RTC contracts and any cause of serious a nature as it adversely affects the ability of the contractor to meet the minimum standards of fitness and integrity required under 12 CFR part 1606.

In addition to the RTC's statutory mandate to maintain the highest ethical standards for its contractors, the RTC has the responsibility to ensure satisfactory performance on contracts. The RTC has the power to take actions incidental to achieving its statutory objectives pursuant to 12 U.S.C. 1441a(b)(10)(C), (b)(10)(N) and b(12)(A). The regulation being adopted herein, as it applies to contractual performance, is a reasonable exercise of this power.

Notice of Proposed Exclusion

The notice provision includes a requirement that upon issuance of a notice of exclusion, RTC will not make any new contract awards to the affected contractor until a final exclusion decision is rendered. It also requires the respondent to submit, within fifteen days after receipt of the notice, information and argument in opposition to the proposed action unless the RTC Ethics Officer, in his/her discretion, grants a time extension.

Personal Appearances

This provision, included under the subparts governing exclusion and suspension actions, sets forth the rights of the contractor, under certain circumstances, to a personal appearance before the RTC Ethics Officer for the purpose of allowing the contractor to be heard on genuine issues of material fact. A personal appearance shall take such form as the RTC Ethics Officer, in the exercise of his/her discretion, shall determine is appropriate.

Notice of Proposed Suspension

The provision includes a requirement that the affected contractor submit, within fifteen days after receipt of the notice, information and argument in opposition to the suspension action unless the RTC Ethics Officer, in his/her discretion, grants a time extension.

Administrative Procedure Act

The RTC is adopting this regulation as an interim final rule effective upon publication in the **Federal Register** without the usual notice-and-comment period or delayed effective date as provided for under the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* ("APA"). The APA requirements may be waived for "good cause."

Promulgation of the regulation on an expedited basis is necessary due to the urgent need to protect the RTC and the public interest against further dissipation of the assets now under RTC control as a consequence of the resolution of hundreds of failed savings associations. Furthermore, many RTC contractors have in their possession extremely valuable documents and legal instruments which can be readily converted to private gain.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 has imposed a duty on the RTC to be vigilant and aggressive in enforcing the highest ethical standards for its independent contractors. Accordingly, it is imperative that a regulation be immediately adopted setting forth policies and procedures pertaining to the suspension or exclusion from RTC contracting of contractors which have been found to have violated those standards. The cost of any delay in promulgating the regulation would ultimately be borne by the taxpaying public in terms of additional erosion in the value of the assets under RTC control.

For the above reasons, the RTC finds that the benefits to the public in adopting the interim rule outweigh any harm from the delay in seeking public comment. The RTC actively solicits comments from the public and will carefully evaluate and act upon any such comments before adopting the rule as final within 90 days after the close of the public comment period.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, the following initial regulatory flexibility analysis is hereby provided:

1. Reasons, objectives and legal bases underlying the interim final regulations: These elements have been discussed elsewhere in the Supplementary Information.

2. Small entities to which the interim final regulations would apply: All RTC contractors, regardless of size, would be subject to these regulations.

3. Impact of the interim final regulations on small businesses: There would be no impact on small businesses except for those which are registered as RTC contractors or are subcontractors of RTC contractors. Furthermore, there would be no impact on RTC contractors except for those where the RTC has found cause to believe that they may have violated the requirements of FIRREA and regulations promulgated thereunder.

4. Overlapping or conflicting Federal rules: There are no known Federal rules which overlap, duplicate or conflict with the interim final regulations.

5. Alternatives to the interim final regulations: The RTC has not identified alternatives that would be less burdensome to small businesses and yet effectively accomplish the objectives of the interim final rule. Furthermore, FIRREA requires the RTC to prohibit any person who does not meet the minimum standards of fitness and integrity from entering into any contract with or performing any service for the RTC and authorizes RTC to rescind awarded contracts when there is a failure to meet the minimum regulatory standards.

List of Subjects in 12 CFR Part 1618

Administrative practice and procedure, Conflict of interests, Government contracts.

For the reasons set out in the preamble, the RTC adds part 1618 to title 12, chapter XVI of the Code of Federal Regulations, to read as follows:

PART 1618—SUSPENSION AND EXCLUSION OF REGISTERED CONTRACTORS AND RESCISSION OF CONTRACTS

Subpart A—General Provisions

Sec.
1618.1 Purpose.
1618.2 Scope.
1618.3 Definitions.
1618.4 Compromise and settlement.

Subpart B—Effect of Action

Sec.
1618.100 Suspension or exclusion.
1618.110 Continuation and/or rescission of contracts.

Subpart C—Exclusion

Sec.
1618.200 General.
1618.210 Causes for exclusion.
1618.220 Procedures.
1618.230 Investigation and referral.
1618.240 Notice of proposed exclusion.
1618.245 Personal appearances.
1618.250 Decision of the RTC Ethics Officer.
1618.260 Period of exclusion.
1618.270 Scope of exclusion.

Subpart D—Suspension

Sec.
1618.300 General.
1618.310 Causes for suspension.
1618.320 Procedures.
1618.330 Investigation and referral.
1618.340 Notice of suspension.
1618.345 Personal appearances.
1618.350 Decision of the RTC Ethics Officer.
1618.360 Period of suspension.
1618.370 Scope of suspension.

Authority: Sections 501(b)(10), 501(b)(12) and 501(p) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 1441a(b)(10), 1441a(b)(12) and 1441a(p).

Subpart A—General Provisions

§ 1618.1 Purpose.

(a) The Financial Institutions Reform, Recovery and Enforcement Act of 1989 at 12 U.S.C. 1441a (p)(1) through (p)(8) requires the Resolution Trust Corporation ("RTC") to prohibit any person who does not meet minimum standards of competence, experience, integrity and fitness from entering into any contract with or performing any service for RTC and authorizes RTC to rescind awarded contracts when there is a failure to meet the minimum regulatory standards. A potential contractor has the initial burden of demonstrating its compliance with all applicable RTC regulations. Regulations implementing these statutory directives appear at 12 CFR part 1606. RTC sets forth in this part 1618 standards and procedures pertaining to the suspension or exclusion from RTC contracting of contractors and related entities and key employees of contractors and/or rescission of awarded contracts of contractors which have violated the regulations at 12 CFR part 1606 or the terms of an RTC contract so seriously as to justify such action.

(b) This part is designed to inform contractors, related entities and key employees regarding their rights to notice and an opportunity to be heard on RTC actions involving suspension and exclusion from contracting and rescission of existing contracts for violations of 12 CFR part 1606 and/or 12 U.S.C. 1441 (p)(1) through (p)(8) and for unsatisfactory contract performance.

§ 1618.2 Scope.

(a) This part applies to all actions initiated by RTC to suspend or exclude

any registered contractor, related entity or key employee or rescind any contract for conduct violating 12 CFR part 1606 and/or 12 U.S.C. 1441a (p)(1) through (p)(8) or for unsatisfactory contract performance.

(b) This part does not apply to decisions denying contractor registration requests, providers of legal services or matters within the purview of the Outside Counsel's Conflicts Committee or decisions of the Contractors' Conflicts Committee, except as herein indicated.

§ 1618.3 Definitions.

Adequate Evidence means information sufficient to support the reasonable belief that a particular act or omission has occurred.

Civil Judgment means a judgment of a civil offense or liability by any court of competent jurisdiction.

Contractor means an individual or entity submitting an offer to perform services or provide goods for the RTC or having a contractual arrangement with RTC to perform services or provide goods. For purposes of these regulations, contractor also means the related entities and key employees of the contractor and any subcontractors.

Contracts means agreements between RTC and a contractor, including agreements identified as "Task Orders", for a contractor to provide goods or services to RTC. Contracts also mean contracts between a contractor and its subcontractor.

Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction whether entered upon a verdict or plea, and includes pleas of nolo contendere.

Ethics Officer means the head of the RTC Contractors' Ethics Office in Washington, DC or designee.

Exclusion means actions taken by RTC pursuant to § 1618.220 through § 1618.270 to prohibit a contractor or related entity from participation in RTC contracting programs.

Indictment means indictment for a criminal offense. An information or other filing by a competent authority charging a criminal offense shall be given the same effect as an indictment.

Key Employee means an individual who participates personally and substantially, through decision, approval, disapproval, recommendation or the rendering of advice, in the negotiation and performance of, and monitoring for compliance under contract with the RTC.

Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Proposal means contractor's written or oral offer to provide goods or services to RTC.

Related Entity means a contractor's management officials; any individual or entity that controls or is controlled by or is under common control with the contractor; and any other entity that is controlled by or any of a contractor's management officials and that will perform work pursuant to the contract. For purposes of this definition, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, or through one or more individuals or subsidiaries, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. A subfranchiser entity shall not be regarded as related to a contractor that is a master franchiser if the subfranchiser is independently owned and operated.

RTC means the Resolution Trust Corporation in any of its capacities and RTC officials or committees acting under delegated authority.

Suspension means action taken by RTC pursuant to § 1618.320 through § 1618.370 to temporarily prohibit a contractor from participation in RTC contracting programs.

§ 1618.4 Compromise and settlement.

(a) Contractors may make offers of compromise or settlement at any time.

(b) The RTC may, at any time, when in the best interest of the RTC, settle a suspension, exclusion or rescission action.

(c) Nothing in this part shall impair or limit the right to any remedies in law or in equity or provided pursuant to the terms of any contract.

Subpart B—Effect of Action

§ 1618.100 Suspension or exclusion.

(a) Contractors suspended, proposed for exclusion, or excluded from RTC contracting programs are prohibited from entering into any new contracts with RTC for the duration of the period of suspension or exclusion as determined pursuant to these regulations. The RTC shall not solicit offers from, award contracts to, extend or modify existing contracts, award task orders under existing contracts, or consent to subcontracts with such contractors. Contractors suspended, proposed for exclusion, or excluded are also prohibited from conducting business with RTC as agents or representatives of other contractors.

(b) The RTC Assistant Executive Director, responsible for contracting, may determine in writing that, with respect to new contracts, a compelling reason exists for utilization of contractors who have been suspended, proposed for exclusion, or excluded from RTC contracting programs except contractors who have been suspended, proposed for exclusion, or excluded by reason of 12 U.S.C. 1441a(p)(E) and/or 12 CFR 1606.5(a).

§ 1618.110 Continuation and/or rescission of contracts.

(a) RTC may rescind any contracts in existence at the time a contractor is suspended or excluded. Contracts in existence with suspended or excluded contractors not rescinded shall continue in full force and operation for the term of the contract.

(b) RTC shall not renew current contracts, approve any subcontracts or execute task orders with suspended or excluded contractors, or otherwise extend their duration (other than no-cost time extensions), except as provided in § 1618.100.

Subpart C—Exclusion

§ 1618.200 General.

The RTC Ethics Officer may exclude a contractor from the RTC contracting program for any of the causes in § 1618.210, using procedures established in §§ 1618.220 through 1618.250. Except in situations where a contractor would be prohibited from contracting with RTC by 12 CFR 1606.5(a), the existence of a cause for exclusion does not necessarily require that the contractor be excluded; the seriousness of the contractor's acts or omissions and any mitigating circumstances shall be considered in making any exclusion decision.

§ 1618.210 Causes for exclusion.

Exclusion may be imposed in accordance with the provisions of §§ 1618.200 through 1618.270 if:

(a) There is a failure to disclose, pursuant to 12 CFR 1606.4, a material fact to the RTC;

(b) The contractor would be prohibited from contracting with RTC by 12 CFR 1606.5(a);

(c) The contractor has been subject to a final enforcement action by any Federal financial institution regulatory agency;

(d) There is any material change in the representations and certifications provided to RTC under 12 CFR 1606.4;

(e) There arises a personal or organizational conflict of interest not

waived by the Contractors' Conflicts Committee, the RTC Ethics Officer or any other person or committee with delegated authority to grant waivers;

(f) The contractor is debarred from participating in other Federal programs;

(g) The contractor has been convicted of, or subject to a civil judgment for:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public or private agreement or transaction;

(2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(4) Commission of any other offense indicating an overall lack of business fitness and integrity; or

(h) Based upon a preponderance of the evidence, the contractor has:

(1) Violated a term of an RTC contract so serious as to justify exclusion, such as:

(i) Willful failure to perform in accordance with the terms of one or more contracts; or

(ii) A history of failure to perform or of unsatisfactory performance on one or more RTC contracts; or

(2)(i) Committed any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of an RTC contractor; or

(ii) There is any cause so serious or compelling in nature that it adversely affects the ability of a contractor to meet the minimum standards of fitness and integrity required by 12 CFR part 1606.

§ 1618.220 Procedures.

RTC shall process exclusion actions as informally as practicable, consistent with the principles of fundamental fairness, using the procedures in §§ 1618.220 through 1618.250.

§ 1618.230 Investigation and referral.

Information concerning the existence of any cause for exclusion shall be promptly reported to the appropriate RTC office for consideration and investigation. After consideration, the RTC Ethics Officer may issue a notice of proposed exclusion.

§ 1618.240 Notice of proposed exclusion.

(a) An exclusion proceeding shall be initiated by written notice from the RTC Ethics Officer to a contractor. Such notice shall be sent by certified mail, return receipt requested, and shall state:

(1) That exclusion is being considered;

(2) That, effective upon receipt of the notice, the contractor is excluded from the RTC contracting program pending completion of the exclusion proceedings specified below;

(3) The reasons, in sufficient detail, to put the contractor on notice of the conduct or transaction(s) upon which the action is based;

(4) The cause(s) relied upon under § 1618.210;

(5) The provisions of §§ 1618.220 through 1618.250 governing exclusion proceedings;

(6) The potential effect of an exclusion action; and

(7) That, within 15 days after receipt of the notice (and such extensions of time as the RTC Ethics Officer, in his/her discretion, may grant), the contractor may submit, in writing, information and argument in opposition to the proposed exclusion, including any additional specific information that raises a genuine dispute over material facts.

(b) For purposes of compliance with this section, notice shall be considered to have been received by the contractor or if the notice is properly mailed to the last known address of such contractor.

§ 1618.245 Personal appearances.

(a) As part of a contractor's written submission as provided in § 1618.240(a)(7), a contractor may request a personal appearance before the RTC Ethics Officer for the purpose of allowing the contractor to be heard on genuine issues of material fact.

(b) At the discretion of the RTC Ethics Officer, a contractor shall have no right to a personal appearance where the contractor's written submission raises no genuine dispute as to material facts or where the action is based solely upon an indictment or conviction, civil judgment, final enforcement action by any Federal financial institution regulatory agency, or upon suspension or debarment by another Federal agency.

(c) Where a contractor has received multiple notices of proposed exclusion or suspension for various causes set forth in this part, the personal appearances of the contractor may be consolidated at the discretion of the RTC Ethics Officer.

(d) A personal appearance may take such form as the RTC Ethics Officer deems appropriate.

§ 1618.250 Decision of the RTC Ethics Officer.

(a) *Written decision.* (1) In actions based upon a conviction, judgment, a final enforcement action by a Federal financial institution regulatory agency, the suspension or debarment of the contractor by another Federal agency, or in which there is no genuine dispute as over material facts, the RTC Ethics Officer shall make a written decision on the basis of all the information in the administrative record.

(2)(i) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared at the conclusion of the additional proceedings. The RTC Ethics Officer shall base the decision on the facts as found, together with any additional information and argument submited by the contractor and any other information in the administrative record.

(ii) The RTC Ethics Officer may refer matters involving disputed material facts to another official for findings of fact. The RTC Ethics Officer may reject any such findings, in whole or in part, only after specifically finding them to be arbitrary and capricious or clearly erroneous.

(iii) The decision of the RTC Ethics Officer shall be made after the conclusion of the proceedings with respect to disputed facts.

(3) In any action in which the proposed exclusion is not based upon a conviction or civil judgment, the cause for exclusion must be established by a preponderance of the evidence.

(4) The written legal concurrence of the Legal Division shall be obtained on any decision to exclude a contractor. In any case where there is disagreement between the RTC Ethics Officer and the Legal Division such that the Legal Division withholds its concurrence, the specific issue of disagreement shall be referred by the Ethics Officer to the Contractors' Conflicts Committee for resolution.

(b) *Notice of the RTC Ethics Officer's decision.* (1) If the RTC Ethics Officer decides to impose exclusion, the contractor shall be given prompt notice by certified mail, return receipt requested—

(i) Referring to the Notice of Proposed Exclusion;

(ii) Specifying the reasons for the exclusion;

(iii) Stating the period of exclusion including effective dates; and

(iv) Stating the effect of the exclusion action.

(2) If the RTC Ethics Officer decides not to impose exclusion, the contractor

shall promptly be notified by certified mail, return receipt requested.

§ 1618.260 Period of exclusion.

(a) Exclusion shall be for a period commensurate with the seriousness of the cause(s). If a suspension precedes an exclusion, the suspension period shall be considered in determining the exclusion period. Exclusion for causes other than when a contractor would be prohibited from contracting with RTC by 12 CFR 1606.5(a) generally should not exceed three years. Where circumstances warrant, a longer period of exclusion may be imposed.

(b) The RTC Ethics Officer may extend an existing exclusion for an additional period if the RTC Ethics Officer determines that an extension is necessary to protect the integrity of the RTC contracting program and the public interest. However, an exclusion may not be extended solely on the basis of the facts and circumstances upon which the initial exclusion action was based. If exclusion for an additional period is determined to be necessary, the procedures of §§ 1618.210 through 1618.250 shall be followed to extend the exclusion.

(c) A contractor subject to an exclusion action may request the RTC Ethics Officer to reverse the exclusion action or reduce the period of exclusion. Such a request shall be in writing and supported by documentation. In no event may more than one such request be submitted within any 12-month period. The RTC Ethics Officer may grant such a request for reasons including, but not limited to:

(1) Newly discovered material evidence;

(2) Reversal of the conviction or civil judgment upon which the exclusion was based;

(3) Bona fide change in ownership or management;

(4) Elimination of other causes for which the exclusion was imposed; or

(5) Other reasons the RTC Ethics Officer deems appropriate.

§ 1618.270 Scope of exclusion.

(a) The fraudulent, criminal, or other seriously improper conduct of any related entity or key employee of the contractor may be imputed to the contractor when the conduct occurred in connection with the related entity or key employee's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of a contractor may be imputed to any related entity or key employee of a contractor who participated in, knew of or had reason to know of the contractor's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one contractor participating in a joint venture or similar arrangement may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of these contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

Subpart D—Suspension

§ 1618.300 General.

(a) The RTC Ethics Officer may suspend a contractor for any of the causes in § 1618.310 using the procedures established in §§ 1618.320 through 1618.350.

(b) Suspension is a serious action to be imposed only when:

(1) There exists adequate evidence of one or more of the causes set out in § 1618.310; and

(2) Immediate action is necessary to protect the integrity of the RTC contracting program and the public interest and/or the security of RTC assets during the pendency of legal or investigative proceedings initiated by RTC, any Federal agency or any non-Federal law enforcement authority.

(c) In assessing the adequacy of the evidence, RTC should consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated and what inferences can reasonably be drawn as a result.

(d) All suspensions shall be for a temporary period pending the completion of an investigation and such legal proceedings as may ensue. A suspension shall become effective immediately upon issuance of the notice specified in § 1618.340. In cases involving suspected violations of Federal law where prosecutive action has not been initiated by the Department of Justice within 12 months from the date of the notice of the suspension, the suspension shall be terminated unless a representative of the Department of Justice requests, in writing, a continuance for an additional six months. In no event shall such a suspension continue beyond 18 months unless prosecutive action has been initiated within that period. The time limits for suspension contained in this section may be waived by the affected contractor.

§ 1618.310 Causes for suspension.

(a) Suspension may be imposed in accordance with the provisions of §§ 1618.300 through 1618.370 upon adequate evidence:

(1) Of suspension by another Federal agency;

(2) That a cause for exclusion under § 1618.210 may exist;

(3) Of commission of any other offense indicating a lack of integrity or business honesty that seriously and directly affects the present responsibility of a contractor; or

(4) Of any other cause so serious or compelling in nature that it adversely affects the present responsibility of a contractor.

(b) Indictment for any offense described in § 1618.210 is adequate evidence to suspend a contractor.

§ 1618.320 Procedures.

RTC shall process suspension actions as informally as practicable, consistent with the principles of fundamental fairness, using the procedures in §§ 1618.320 through 1618.350.

§ 1618.330 Investigation and referral.

Information concerning the existence of any cause for suspension shall be promptly reported to the appropriate RTC office for consideration and investigation. After consideration, the RTC Ethics Officer may issue a notice of suspension.

§ 1618.340 Notice of suspension.

(a) A suspension shall be initiated by written notice from the RTC Ethics Officer to a contractor. Such notice shall be sent by certified mail, return receipt requested, and shall state:

(1) That suspension is being imposed;

(2) That suspension is based on an indictment or other adequate evidence that the contractor has committed irregularities:

(i) Of a serious nature in business dealings with RTC or other Federal agencies; or

(ii) Seriously bearing on the propriety of further RTC dealings with such contractor. Any such irregularities shall be described in terms sufficient to place the contractor on notice without disclosing the RTC's evidence;

(3) Of the cause(s) relied upon under § 1618.310 for imposing suspension;

(4) That the suspension is for a temporary period pending the completion of an investigation and such legal or exclusion proceedings as may ensue;

(5) Of the potential effect(s) of a suspension action; and

(6) That, within 15 days after receipt of the notice (and such extensions as the RTC Ethics Officer, in his/her discretion, may grant), the contractor may submit, in writing, information and argument in opposition to the suspension action, including any additional specific information that raises a genuine dispute over material facts.

(b) For purposes of compliance with this section, notice shall be considered to have been received by the contractor if the notice is properly mailed to the last known address of such contractor.

§ 1618.345 Personal appearances.

(a) As part of a contractor's written submission as provided in § 1618.340(a)(6), a contractor may request a personal appearance before the RTC Ethics Officer for the purpose of allowing the contractor to be heard on genuine issues of material fact.

(b) At the discretion of the RTC Ethics Officer, a contractor shall have no right to a personal appearance where:

(1) The contractor's written submissions raise no genuine issue of material fact, or where the action is based solely upon an indictment, civil judgment, final enforcement action by any Federal financial institution regulatory agency, or upon suspension or debarment by another Federal agency; or

(2) A representative of the Department of Justice has advised in writing that the substantial interests of the Government would be prejudiced by a personal appearance, and the RTC Ethics Officer determines that a suspension is based on the same facts as pending or contemplated legal proceedings referenced by the representative of the Department of Justice.

(c) Where a contractor has received multiple notices of suspension or proposed exclusion for various causes set forth in this part, the personal appearances of the contractor may be consolidated at the discretion of the RTC Ethics Officer.

(d) A personal appearance shall take such form as the RTC Ethics Officer deems appropriate.

§ 1618.350 Decision of the RTC Ethics Officer.

(a) *Written decision.* (1) In actions based upon an indictment, judgment, or a final enforcement action by a Federal financial institution regulatory agency; or in actions in which the contractor's written submission does not raise a genuine dispute over material fact; or in actions in which additional proceedings to determine disputed material facts have been denied upon the basis of advice by a representative of the Department of Justice; or in actions based upon the suspension or debarment of the contractor by another Federal agency, then the RTC Ethics Officer shall make a written decision on the basis of all the information in the administrative record.

(2)(i) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared following the additional proceedings. The RTC Ethics Officer shall base the decision on the facts as found, together with any additional information and argument submitted by the contractor and any other information in the administrative record.

(ii) The RTC Ethics Officer may refer matters involving disputed material facts to another official for findings of fact. The RTC Ethics Officer may reject any such findings, in whole or in part, only after specifically finding them to be arbitrary and capricious or clearly erroneous.

(iii) The decision of the RTC Ethics Officer shall be made after the conclusion of the proceedings with respect to disputed facts.

(iv) The RTC Ethics Officer may modify or terminate the suspension or leave it in force for the reason of reducing the period of exclusion.

(3) The written legal concurrence of the Legal Division shall be obtained on any decision to suspend a contractor. In any case where there is disagreement between the RTC Ethics Officer and the Legal Division such that the Legal Division withholds its concurrence, the specific issue of disagreement should be referred by the Ethics Officer to the Contractors' Conflicts Committee for resolution.

(b) Prompt written notice of the action of the RTC Ethics Officer shall be sent to the contractor by certified mail, return receipt requested.

§ 1618.360 Period of suspension.

(a) Suspension shall be for a temporary period pending the completion of an investigation or ensuing legal or exclusion proceedings unless terminated sooner by the RTC Ethics Officer or as provided in paragraph (b) of this section.

(b) If legal or administrative proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless a representative of the Department of Justice requests its extension in writing, in which case it may be extended for an additional six months. In no event may an extension extend beyond 18 months, unless such proceedings have been initiated within that period.

(c) RTC shall notify the Department of Justice of an impending termination of a suspension at least 30 days before the 12-month period expires to give the Department of Justice an opportunity to request an extension.

(d) The time limitations for suspension in this section may be waived by the affected contractor.

§ 1618.370 Scope of suspension.

The scope of suspension shall be the same as that for exclusion under § 1618.270, except that the procedures of §§ 1618.320 through 1618.350 shall be used in imposing suspension.

By order of the Board of Directors.

Dated at Washington, DC, this 25th day of June, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

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federal register

Friday
July 5, 1991

Part IV

Department of Education

Office of Special Education and Rehabilitative Services: National Institute on Disability and Rehabilitation Research; New Awards for Training and Public Awareness Projects Under the Technology-Related Assistance to Individuals With Disabilities Program and for a Program in Support of Implementation of the Americans With Disabilities Act; Notices Inviting Applications

DEPARTMENT OF EDUCATION

[CFDA No.: 84.236]

Office of Special Education and Rehabilitative Services: National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards For Training and Public Awareness Projects of National Significance Under the Technology-Related Assistance to Individuals With Disabilities Program

Purpose of Program: The purpose of this program is to develop and provide training to consumers and service providers and expand public awareness of the benefits and applications of technology-related assistance for individuals with disabilities. Technology Training Projects develop curricula and train individuals with disabilities, their family members or representatives, employers, insurers, and persons providing services to or otherwise having contact with persons with disabilities regarding the provision of technology-related assistance. Technology Careers Projects provide undergraduate, graduate, continuing education, and in-service training to prepare individuals for careers relating to the provision of technology-related assistance. Public Awareness Projects build awareness of the importance and efficacy of assistive technology for individals with disabilities.

Eligible Applicants: Private nonprofit and for-profit entities are eligible to apply for assistance under this program.

Deadline for Transmittal of Applications: August 5, 1991.

Applications Available: July 5, 1991.

Available funds: For Technology Training Projects—$450,000. For Technology Careers Projects—$450,000. For Public Awareness Projects—$300,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: Technology Training Projects—three, one in each priority area. Technology Careers Projects—three, one in each priority area. Public Awareness Projects—two, one in each priority area.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by sttute or regulation.

Priorities: Absolute priorities for Technology Training Projects are selected from § 347.11 of the proposed regulations: (4) Development, testing, and dissemination of models for consumers to evaluate different approaches to assistive technology training, including consumer training. (15) Devleopment, evaluation, implementation, and dissemination of models for training low-incidence disability groups on the uses and benefits of assistive technology. (19) Development, evaluation, implementation, and dissemination of training programs about assistive technologies with special application for employment specifically for persons with disabilities who are preparing to enter the job market.

Absolute priorities for Technology Careers Projects are selected from § 347.12 of the proposed regulations: (7) Implementation of curricula involving classroom instruction and clinical experience in community-based and at home-settings for either physical therapists, occupational therapists, nurses, physicians in specialties relevant to disability, rehabilitation counselors, speech-language-hearing pathologists, rehabilitation educators, or rehabilitation engineers. (8) Development and implementation of technology career training programs for students from underserved population groups, including minorities, who are preparing to become service delivery profesionals. (10) Implementation of training programs for individuals who will prepare personnel for work in programs that provide technology-related assistance.

Absolute priorities for Public Awareness projects are selected from § 347.13 of the proposed regulations: (2) Development and implementation of a model public awareness campaign using specialized media, including minority media, to reach previously underserved populations. (4) Conduct national or regional conferences for third party payers and private insurance representatives that focus on awareness of the benefits of assistive technology.

Project Period: Technology Training Projects—36 months. Technology Career projects—36 months. Public Awareness Project—24 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86 and the regulations for this program in 34 CFR part 347 when adopted in final form.

It is the policy of the Department of Education not to solicit applications before the publication of the final regulations. However, in this case it is essential to solicit applications on the basis of the notice of proposed rulemaking as published in the **Federal Register** on May 21, 1991, at 56 FR 23352, to ensure that funds are obligated by September 30, 1991.

The comment period for the notice of proposed priorities ended on June 20, 1991. The Department received 14 comments, most of which were strongly supportive of the regulations.

A few commenters suggested that the priorities should include training for special education professionals. The Secretary agrees and expects to add new priorities for educators to § 347.11 and § 347.12. The new priority under § 347.11 would address the development, evaluation, implementation, and dissemination of inservice training programs on assistive technology for educators. The new priority under § 347.12 would address the development of curricula for educators to ensure competency in the provision of assistive technology.

One commenter suggested that the priorities should include training for qualified therapeutic recreation specialists and recreation professionals. The Secretary agrees and expects to add new priorities for qualified therapeutic recreation specialists and recreation professionals to § 347.11 and § 347.12. The new priority under § 347.11 would address the development, evaluation, implementation, and dissemination of inservice training programs on assistive technology for qualified therapeutic recreation specialists and recreation professionals. The new priority under § 347.12 would address the development of curricula for qualified therapeutic recreation specialists and recreation professionals to ensure competency in the provision of assistive technology.

One commenter noted that § 347.1(a) and § 347.2(a) do not include the same target populations for training. The Secretary expects to revise § 347.2(a) to include, as does § 347.1(a), the training of individuals with disabilities, their family members or representatives, employers, insurers, and persons providing services to or otherwise having contact with persons with disabilities, regarding the provision of technology-related assistance.

One commenter suggested that, as there are limited funds available for public awareness projects, the successful grantees should be familiar with public awareness campaigns. This suggestion has already been implemented in the management plan selection criteria. For example, § 347.33(d)(6) requires each applicant to detail "resources, experiences, and capabilities of the institution or organization to accomplish the goals

and objectives proposed in the application."

One commenter noted the need to stimulate private-sector support and involvement with persons with disabilities, State agencies, and providers to improve access to assistive technology. The Secretary agrees and believes that the eligibility of private nonprofit and for-profit entities under the technology training and public awareness projects will stimulate private-sector support and involvement. Priorities 6, 10, 18 under § 347.11, and priorities 1, 2, 3, 4, 5, and 8 under § 347.13, respond to this commenter's concern.

A commenter stressed the importance of not duplicating already existing efforts underway for personnel and career development from the Rehabilitation Services Administration and the Office of Special Education Programs. The Secretary agrees and care has been and will continue to be taken to avoid duplication.

A commenter suggested that eligibility for § 347.1(a) and § 347.1(c) should not be restricted to nonprofit or for-profit entities. The Secretary points out that the eligibility requirements for this program are established by statute.

A commenter recommended a new priority under the technology training program addressing title III of the Americans with Disabilities Act (ADA). The Secretary believes a new training priority addressing the ADA would duplicate the efforts that will be undertaken through NIDRR's new technical assistance initiative promoting implementation of the ADA. This initiative includes the establishment of Regional Disability and Business Accommodation Centers, each of which will provide training on a wide variety of issues, including assistive technology.

Two commenters suggested which priorities should be funded. One of these commenters recommended that projects under the career training program not be funded. The Secretary has selected the priorities to be funded based upon the needs of the field and the interests of persons with disabilities.

One commenter recommended adding "and technologists" after "and other engineers" in § 347.11(a)(14). The Secretary disagrees because the term "technologists" is too broad to be meaningful.

A commenter suggested that potential grantees be allowed to seek additional funding resources to supplement Federal funds. The Secretary agrees and encourages prospective grantees to collaborate and seek additional funding support.

As indicated above, there are five changes expected in the final regulations: § 347.2(a) would parallel § 347.1(a); new priorities for educators would be added to § 347.11 and § 347.12; and new priorities for qualified therapeutic recreation specialists and recreation professionals would be added to § 347.11 and § 347.12. The new priorities for educators and qualified therapeutic recreation specialists and recreation professionals in § 347.11 and § 347.12 will not be funded in fiscal year 1991.

Applicants are advised to submit their applications based on the proposed regulations, with the expected changes noted above, and the priorities in this notice. If further changes are made in the final regulations, applicants will be provided the opportunity to amend or resubmit their applications.

For Applications Contact: Donna McGee, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Attention Peer Review Unit. Telephone: (202) 732-1141; deaf or hearing impaired individuals may call (202) 732-5373 for TDD services.

For Further Information Contact: Carol Cohen, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-5066. Deaf or hearing-impaired individuals may call (202) 732-5079 for TDD services.

Program Authority: 29 U.S.C. 2211-2271.

Dated: June 28, 1991.

Robert R. Davila,

Assistant Secretary, Special Education and Rehabilitative Services.

[FR Doc. 91-15948 Filed 7-3-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133D]

Office of Special Education and Rehabilitative Services: National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards For a Program in Support of the Implementation of the Americans With Disabilities Act for Fiscal Year 1991

Purpose of Program: The purpose of this program is to develop and disseminate information that will facilitate the implementation of the Americans With Disabilities Act (ADA). The National Institute on Disability and Rehabilitation Research (NIDRR) will support three types of projects: Two Peer Training projects, including one for Local Capacity-Building in Independent Living Centers and one for a Peer and Family Training Network; three Materials Development Projects, one each in the areas of Accessibility and Public Accommodations, Employment, and Accessibility in Communications; and ten Regional Disability and Business Accommodation Centers (RDBACs).

Eligible Applicants: Public and private agencies and organizations, including institutions of higher education, Indian tribes and tribal organizations, and for-profit and nonprofit entities may apply for awards under this program.

Deadline for Transmittal of Applications: August 5, 1991.

Applications Available: July 5, 1991.

Available Funds: For Peer Training Projects—$500,000. For Materials Development Projects—$750,000. For regional Disability and Business Accommodation Centers—$3,000,000.

Estimated Average Size of Awards: For Peer Training Projects—$250,000. For Materials Development Projects—$250,000. For RDBACs—$275,000-$325,000.

Estimated Number of Awards: Peer Training Projects—two, one in each priority area. Materials Development Projects—three, one in each priority area. RDBACs—ten, one in each Department of Education Region.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

Project Period: Peer Training Projects—36 months. Materials Development Projects—24 months. RDBACs—60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86 and the regulations for this program in 34 CFR parts 350 and 355. Additional selection criteria were published in the **Federal Register** on May 21, 1991, at 56 FR 23336.

It is the policy of the Department of Education not to solicit applications before the publication of the final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priorities as published in the **Federal Register** on May 21, 1991, at 56 FR 23336, to ensure that funds are obligated by September 30, 1991.

The public comment period for the notice of proposed priorities expired on June 20, 1991. The Department received thirty-nine comments. The comments were strongly supportive of the priorities.

A few commenters suggested that the projects funded under the priorities be awarded to specific entities. It is the policy of the Department to award the grants on a competitive basis through the peer review process.

A number of commenters stressed the need for the materials developed by the grantees to be in accessible formats. The Secretary agrees and expects to retain the requirement included in the proposed priority that materials be developed in a variety of accessible formats.

A number of commenters were concerned with the various timelines regarding submission of proposals and the carrying out of grant activities. The Secretary recognizes the demanding schedule that is being placed upon those who will submit proposals and operate the grants. The Secretary is maintaining the proposed timelines in order to respond in a timely manner to the technical assistance demands of the ADA.

A number of commenters were concerned about the need to control the quality of the technical assistance provided and the need for the grantees to coordinate their efforts among themselves and with other public and private agencies. The Secretary recognizes the importance of quality control and coordination. Through a technical assistance coordination contract, the Secretary will take the necessary steps to ensure the quality of the materials produced and the technical assistance provided, as well as the coordination of activities, in order to avoid duplication and utilize fully the information that currently exists.

A number of commenters stressed the importance of the RDBACs to train employers and work closely with the business community. The Secretary believes that the RDBACs must establish constructive ties to both the business and disability communities in order to be successful. The Secretary expects to retain the selection criterion that encourages a collaborative effort between those with rights and duties under the ADA, and will ensure that experts from both the disability and business communities participate in the peer review process.

A number of commenters commended the Secretary for promoting the role of persons with disabilities in the planning, management, and implementation of the grants. The Secretary believes that it is of significant benefit to all affected parties to promote the establishment of meaningful roles for persons with disabilities in all aspects of this technical assistance effort.

A number of commenters expressed concern that persons with severe disabilities, children with disabilities, and families of persons with disabilities would not benefit from the technical assistance activities of the grantees. The Secretary expects grantees to provide technical assistance to all persons with rights or duties under the ADA.

A number of commenters suggested that one or more of the RDBACs focus exclusively on one type of disability or one issue area. The Secretary disagrees. The Secretary believes that the scope of the ADA requires the RDBACs to address a wide range of issues in order to meet the technical assistance needs of all persons with rights and duties under the ADA.

A number of commenters suggested that issue areas be interpreted as broadly as possible to ensure that a grantee includes all issues within the scope of the award. For example, one commenter suggested that "employment" be defined expressly to include "supported employment." As indicated above, the scope of the ADA requires broad coverage of issues. The Secretary fully expects grantees to structure their activities to include all relevant issues.

One commenter suggested that the concept of "training the trainers" referred to in the priority for Peer Training Projects may be an inefficient means of reaching the goal and suggested some change in the wording. The Secretary believes that training trainers is one strategy, although not the only strategy, that applicants may propose to adopt to address the problem of training a large number of individuals and organizations quickly.

One commenter questioned the equity of the distribution of resources for the RDBACs in light of the expected differences in demands that will be placed on the RDBACs across the regions of the country. The Secretary expects to retain the regional structure set forth in the proposed priority statement. However, the Secretary expects the size of the awards to vary across regions depending on the needs of individual applicants.

Based on the comments received, no changes are expected to be made in the final priority, and applicants are advised to submit their applications on the proposed priority. If changes are made in the final priority, applicants will be provided the opportunity to amend or resubmit their applications.

For Applications Contact: Donna McGee, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Attention: Peer Review Unit. Telephone: (202) 732-1141; deaf or hearing impaired individuals may call (202) 732-5373 for TDD services.

For Further Information Contact: David Esquith, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732-5801. Deaf or hearing-impaired individuals may call (202) 732-5079 for TDD services.

Program Authority: 29 U.S.C. 760-762.

Dated: June 28, 1991.

Robert R. Davila,

Assistant Secretary, Special Education and Rehabilitative Services.

[FR Doc. 91-15949 Filed 7-3-91; 8:45 am]

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federal register

Friday
July 5, 1991

Part V

Department of the Interior

Bureau of Indian Affairs

Mashantucket Pequot Tribal Liquor Ordinances; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Mashantucket Pequot Tribal Liquor Ordinance

June 26, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. This notice is to certify that the Mashantucket Pequot Tribal Liquor Ordinance adopted on September 19, 1990, Relating to the Use and Distribution of Liquor was duly adopted by the Mashantucket Pequot of Connecticut by Ordinance 091990-01. The Ordinance provides for the regulation of possession, consumption and importation of alcohol into the area of the Mashantucket Pequot of Connecticut and the surrounding Indian Country under the jurisdiction of the Mashantucket Pequot of Connecticut. Subsequent to the passage of the Tribal Liquor Ordinance, the Tribal-State compact addressed by the Ordinance's preamble in its last "Whereas" clause, was adopted as gaming procedures by Secretarial action. The Secretary established the tribal/state compact chosen by a mediator, and approved by the Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority. See "Notice of Final Mashantucket Pequot Gaming Procedures" at 56 FR 24,996 (1991). As stated in the "Notice of Opportunity to Comment on Mashantucket Pequot Gaming Procedures" published at 56 FR 15,746 (1991), section 14 of the compact "applies the state standards for regulation of alcoholic beverages. Consumption of alcoholic beverages is also governed by 18 U.S.C. 1154 and 1161." The Tribal Liquor Ordinance therefore remains consistent with Federal and State laws governing alcohol on Indian Reservations.

DATES: This Ordinance is effective as of July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Hilda A. Manuel, Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street NW., mail stop 2614-MIB, Washington, DC 20240; telephone (202) 208-4400, (FTS) 268-4400.

SUPPLEMENTARY INFORMATION: The Ordinance reads as follows:

Whereas, the Mashantucket Pequot Tribe is a federally recognized Indian Tribe pursuant to 25 U.S.C. 1758(a); and

Whereas, the Reservation of the Tribe is subject to the laws of the United States relating to Indian lands pursuant to 25 U.S.C. 1757(a) and is therefore Indian Country within the meaning of 18 U.S.C. 1151; and

Whereas, the Tribal Council of the Mashantucket Pequot Tribal Council is the recognized governing body of the Mashantucket Pequot Tribe as acknowledged in 25 U.S.C. 1752(1); and

Whereas, the Tribal Council of the Mashantucket Pequot Tribe has the authority pursuant to article IX of the Constitution and By-Laws of the Tribe to conduct and manage the affairs of the Tribe including the powers to enact its law and ordinances; and

Whereas, the Tribal Council has determined that it is in the best interests of the Tribe to exempt certain sales of intoxicating liquor from certain provisions of title 18 of the United States Code as provided in 18 U.S.C. 1161; and

Whereas, there is no former liquor control ordinance of the Mashantucket Pequot Tribe; and

Whereas, the State of Connecticut exercises jurisdiction within the Reservation of the Tribe over the sale of intoxicating liquor in accordance with the Liquor Control Act of the State of Connecticut, section 30-A *et seq.* of the Connecticut General Laws, and any sale of intoxicating liquor within the Reservation shall be subject to all of the requirements of such State law and any violation of such State law shall be punishable by the State of Connecticut in accordance with the provisions of such State law and shall not be separately punishable as a criminal offense under the laws of the Tribe;

Whereas, the Tribe is engaged in negotiations with the State of Connecticut for a Tribal-State compact to regulate Class III gaming activities on the Reservation of the Tribe in accordance with the Indian Gaming Regulatory Act, Public Law 100-497, and such Compact may provide that the State shall grant permits to the Tribe in accordance with the State Liquor Control Act for the sale of intoxicating liquor within the Class III gaming facilities of the Tribe and certain ancillary facilities;

Now, therefore, Be it enacted by the Mashantucket Pequot Tribal Council at a meeting duly called and in the presence of a quorum of said Council:

In accordance with the provisions of 18 U.S.C. 1161, the sale or possession of intoxicating liquor of any kind shall be lawful on the Mashantucket Pequot Reservation provided that: (1) Such sale or possession occurs in conformity with the laws of the State of Connecticut regulating the sale of intoxicating liquor and all sales are made pursuant to a permit or permits issued by the Department of Liquor Control of the State of Connecticut; (2) sale of intoxicating liquor shall occur only within the gaming facilities established by the Tribe in accordance with the provisions of the Indian Gaming Regulatory Act, Public Law 100-497, or within such ancillary facilities for the service of food or beverages as are located in the same or adjoining buildings as such gaming facilities; and (3) such sale shall not be permitted except in conformity with regulations governing such sales which are approved by the members of the Mashantucket Pequot Tribe at any regular or special meeting conducted in conformity with the Constitution and By-Laws of the Tribe. Violations of the Liquor Control Act of the State of Connecticut which take place on the Mashantucket Pequot Reservation shall be punishable by the State of Connecticut in accordance with its laws.

David M. Matheson,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 91-16031 Filed 7-3-91; 8:45 am]

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federal register

Friday
July 5, 1991

Part VI

Small Business Administration

13 CFR Part 107

Small Business Investment Companies; Portfolio Valuation; Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Rev. 6; Amdt. 8]

RIN 3245-AC25

Small Business Investment Companies; Portfolio Valuation

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule clarifies the requirements regarding the valuation of portfolio companies of Small Business Investment Companies (SBICs) and Specialized Small Business Investment Companies (SSBICs) (collectively, Licensees) which an independent public accountant (IPA) must follow in performing an audit on a Licensee (13 CFR part 107, appendix I). This action is taken to ensure that Licensee audits are performed in accordance with the requirements of the U.S. Small Business Administration (SBA). It is expected that this final rule will eliminate uncertainty that may exist regarding the role of the IPA in the valuation process.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas C. Bresnan, Staff Accountant, Telephone: (202) 205-6510.

SUPPLEMENTARY INFORMATION: On September 27, 1990, SBA published a proposed rule (55 FR 39421) concerning the valuation of Licensee portfolio companies, and afforded the public 30 days to comment on the proposal. Thereafter, SBA extended the comment period until November 28, 1990.

During the comment period, SBA received approximately 25 comments on the proposed rule. Some excellent ideas were proposed in the comments for ways to expand on the approach taken by SBA in the proposed rule. These suggestions will be considered for possible use in the future. Many of the commenters expressed their approval of the proposal, agreeing that it was a healthy clarification of the existing requirements. Those who expressed objections generally focused on one or more of the following three issues:

1. The proposal would increase the auditing costs of the Licensee.
2. SBA Policy and Procedural Release #2006 (PPR 2006) is too vague to give adequate guidance to the IPA in performing his/her audit.
3. SBA should clarify that the role of the IPA is to examine the valuation process and not to perform an actual valuation of particular portfolio loans and investments.

SBA has considered these comments and has decided to adopt the rule as proposed with a minor modification to incorporate comment #3 into the regulatory text. The final rule now clearly provides that the IPA "is not to be an appraiser determining the value of the licensee's securities and is not required to perform an audit of the portfolio concern."

SBA is not persuaded, as authors of comment #1 argued, that this rule will result in a significant increase in auditing costs to the Licensee. This rule is merely a clarification of existing responsibilities and does not require the IPA to perform any new procedures over and above what is currently required by appendix I to part 107. Only the explicit requirement of inspecting valuations representing at least 50% of the dollar value of the entire portfolio is added. This requirement substitutes the Agency's best estimate of a reasonable level of diligence by the IPA in place of the IPA's own estimate. It should produce no more than a minimal increase, if any, in cost, and could produce a decrease in cost if an IPA is currently reviewing more than 50% of the portfolio.

As to comment #2, it should be noted that PPR 2006 does not provide specific techniques to be followed by the IPA in valuing Licensee portfolios. Rather, the Release is intended to assist Licensees in their development of valuation procedures. As its first sentence states, "[t]he purpose of this Release is to provide guidance to (Licensees) as to the proper techniques and standards to be followed in valuing their portfolios." IPAs are expected to employ their professional expertise in assessing the procedures adopted by the Licensee. While this release may contain useful information for IPAs in their determination of the adequacy and appropriateness of procedures established by the Licensee, it remains the responsibility of the IPA to use professional judgment in assessing the suitability of the procedures in place. In general, a set of procedures based on the guidelines set forth in PPR 2006 would be deemed reasonable and acceptable by SBA.

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

Regulatory Flexibility Act

SBA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. No new obligations are imposed on auditors by this final rule. Rather, this action is merely a clarification of existing responsibilities.

Executive Order 12291

SBA certifies that this final rule will be a nonmajor rule for purposes of Executive Order 12291, for the following reasons:

1. It will not result in an annual economic effect on the national economy of $100 million or more; in this regard, SBA is satisfied that if this clarification of the appendix increases the cost of audits performed under it, such increase would be minimal at most.
2. It will not result in a major increase in costs for consumers, the investment company industry, Federal, State, or local government agencies, or geographic regions.
3. It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in the domestic or export markets.

Executive Order 12612

SBA certifies that this final rule will not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

Paperwork Reduction Act of 1980

This final rule will not impose any reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set out in the preamble, title 13, part 107 of the Code of Federal Regulations is proposed to be amended as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 continues to read as follows:

Authority: Title III of the Small Business Investment Act, 15 U.S.C. 681 *et seq.*, as amended, Pub. L. 100-590 and Pub. L. 101-162. 15 U.S.C. 687(c); 15 U.S.C. 683, as amended by Pub. L. 101-162; 15 U.S.C. 687d; 15 U.S.C. 687g; 15 U.S.C. 687b; 15 U.S.C. 687m, as amended by Pub. L. 100-590.

2. Appendix I, section III. Scope of Audit is amended by removing the final paragraph thereof and inserting the following in lieu thereof:

III. Scope of Audit

* * * * *

The independent public accountant is not to be an appraiser determining the value of the licensee's securities and is not required to perform an audit of the portfolio concern(s). The accountant is expected to satisfy himself as to the reasonableness of the basis used by the Board of Directors/General Partner(s) in determining the valuation of loans and investments.

This means that the accountant is to assess the procedures that the Board/General Partner(s) follows in valuing investments. The accountant must determine that the procedures are adequate (*i.e.*, that the procedures require a reasonable analysis of all applicable facts), that they were in fact followed and that they were consistently applied.

The accountant will inspect the documentation supporting the valuations made by the Board/General Partner(s) and determine whether such valuations are adequately documented in the licensee's files, and whether such documentation is both appropriate for the investment and sufficient in the accountant's opinion to support the valuation assigned.

The accountant will inspect a sufficient number of valuations to support his findings. A sufficient number of valuations shall mean valuation representing no less than 50 percent of the dollar value of the entire portfolio.

In cases where the accountant cannot satisfy himself that all the preceding requirements have been fulfilled, he must specifically so state in his opinion.

3. Appendix I, section V. Reporting Requirements—General, Subsection J. "Audit Procedures", is amended by removing the final paragraph thereof and inserting the following in lieu thereof:

V. Reporting Requirements— General

* * * * *

J. Audit Procedures

* * * * *

The auditor is not to be an appraiser determining the value of the licensee's securities and is not required to perform an audit of the portfolio concern(s). The auditor is expected to satisfy himself as to the reasonableness of the basis used by the Board of Directors/General Partner(s) in determining the valuation of loans and investments.

This means that the auditor is to assess the procedures that the Board/General Partner(s) follows in valuing investments. The auditor must determine that the procedures are adequate (*i.e.*, that the procedures require a reasonable analysis of all applicable facts), that they were in fact followed and that they were consistently applied.

The auditor will inspect the documentation supporting the valuations made by the Board/General Partner(s) and determine whether such valuations are adequately documented in the licensee's files, and whether such documentation is both appropriate for the investment and sufficient in the auditor's opinion to support the valuation assigned.

The auditor will inspect a sufficient number of valuations to support his findings. A sufficient number of valuations shall mean valuations representing no less than 50 percent of the dollar value of the entire portfolio.

In cases where the auditor cannot satisfy himself that all the preceding requirements have been fulfilled, he must specifically so state in his opinion.

Dated: June 21, 1991.

Patricia Saikl,

Administrator.

[FR Doc. 91-16024 Filed 7-3-91; 8:45 am]

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federal register

Friday
July 5, 1991

Part VII

The President

Proclamation 6312—National Literacy Day, 1991

Federal Register
Vol. 56, No. 129
Friday, July 5, 1991

Presidential Documents

Title 3—

The President

Proclamation 6312 of July 2, 1991

National Literacy Day, 1991

By the President of the United States of America

A Proclamation

The ability to read, write, and comprehend the written word is essential to full participation in our society. Literacy opens the door to the realm of ideas and enables us to enjoy the rewards of lifelong learning. It enables us to stay more fully informed about events of the day, it helps us to be better parents, and it gives us tools that we need to exercise our rights and responsibilities as citizens. That is why we will continue to reach out to the millions of Americans who remain encumbered by poor literacy skills.

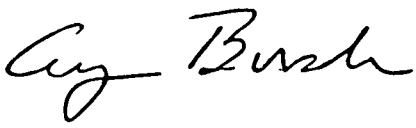
During this 25th year of the Adult Education Act, we are embarked on a bold new campaign to build a nation of students. It is known as our AMERICA 2000 strategy. One of the six National Education Goals that this strategy has been designed to reach is full adult literacy by the turn of the century. As a Nation we are committed to ensuring that every citizen will be literate and possess the knowledge and skills—including the technical skills—that are needed to enjoy full, productive lives in an increasingly competitive world.

On this occasion, we commend the many educators, business leaders, and volunteers in communities across the Nation who have dedicated themselves to achieving the goal of full adult literacy. In addition, we celebrate the courage and the accomplishments of those adults who are working to achieve greater literacy and to reach their fullest potential—as parents, employees, citizens, and neighbors.

In recognition of the vital importance of literacy to the personal well-being of every American and to the strength and productivity of our entire Nation, the Congress, by House Joint Resolution 259, has designated July 2, 1991, as "National Literacy Day" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim July 2, 1991, as National Literacy Day. I call upon the people of the United States, government officials, and all Americans to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of July, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.



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Reader Aids

Federal Register

Vol. 56, No. 129

Friday, July 5, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

29889-30306.....1
30307-30492.....2
30483-30678.....3
30679-30856.....5

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Presidential Determinations:
No. 91-42 of June 21, 1991.....30483
Proclamations:
6310.....30303
6311.....30307
6312.....30855
Executive Orders:
12473 (See EO 12767).....30283
12484 (See EO 12767).....30283
12550 (See EO 12767).....30283
12586 (See EO 12767).....30283
12700 (Amended by EO 12768).....30301
12708 (See EO 12767).....30283
12767.....30283
12768.....30301

5 CFR

Proposed Rules:
842.....30701
843.....30701

7 CFR

58.....30485
220.....30309
301.....29889
458.....30489
1944.....30311, 30494
Proposed Rules:
28.....30618
210.....30339
235.....30339
245.....30339
800.....29907, 30342
810.....29907, 30342
1211.....30517
1421.....29912
1943.....30347
1951.....30347
1980.....30347
3400.....30254

8 CFR

338.....30679
Proposed Rules:
204.....30703

10 CFR

Proposed Rules:
707.....30644

12 CFR

312.....29893
1618.....30836

13 CFR

107.....30850

14 CFR

39.....30313-30316, 30319-30324, 30680-30683
71.....30684, 30685
73.....30685
95.....30686
97.....30317
129.....30122
Proposed Rules:
39.....30350, 30351
71.....30353, 30354, 30618
73.....30355
91.....30618

15 CFR

8a.....29896
29a.....29896
29b.....29896

16 CFR

305.....30494
1000.....30495
Proposed Rules:
1700.....30355

17 CFR

200.....30036
201.....30036
210.....30036
229.....30036
230.....30036
239.....30036
240.....30036
249.....30036
260.....30036
269.....30036

18 CFR

284.....30692
401.....30500

20 CFR

Proposed Rules:
320.....30714

21 CFR

558.....29896
Proposed Rules:
101.....30452, 30468
102.....30452

22 CFR

40.....30422
41.....30422

42 30422
43 30422
44 30422

24 CFR

50 30325
58 30325
86 30430
Proposed Rules:
961 30176

26 CFR

Proposed Rules:
1 30718-30721
48 30359

27 CFR

Proposed Rules:
4 29913

28 CFR

0 30693
524 30676
Proposed Rules:
75 29914

29 CFR

500 30326
1600 30502

30 CFR

901 30502
Proposed Rules:
917 30722
920 30517

32 CFR

861 30327
Proposed Rules:
199 30360
228 30365

33 CFR

1 30242
100 ..... 29897-29899, 30507
117 30332
165 ..... 30334, 30507-30509
Proposed Rules:
100 29916

34 CFR

Proposed Rules:
361 30620

36 CFR

7 30694

38 CFR

36 29899

40 CFR

52 30335
141 30264
142 30264
143 30264
180 29900
261 30192
262 30192
264 ..... 30192, 30200
265 ..... 30192, 30200
270 30192
271 30336
721 ..... 29902, 29903
Proposed Rules:
28 29996
52 29918
80 29919
86 30228
136 30519
260 30519
261 30519
264 30201
265 30201
280 30201
761 30201

42 CFR

442 30696
Proposed Rules:
417 30723

43 CFR

Proposed Rules:
11 30367
3160 29920
3810 30367
3820 30367
4700 30372

44 CFR

302 29903

46 CFR

221 30654
Proposed Rules:
586 30373

47 CFR

73 ..... 30337, 30510-30512
94 30698
Proposed Rules:
Ch. I 30373
73 ..... 30374, 30375, 30524-30526
76 ..... 30526, 30726

48 CFR

519 30618

49 CFR

40 30512
Proposed Rules:
571 30528

50 CFR

630 29905
641 30513
650 30514
663 30338
675 ..... 30515, 30699
Proposed Rules:
642 29920
646 29922
651 29934
685 30376

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 3, 1991