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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.

SAN FRANCISCO, CA

WHEN: November 29; at 9:00 a.m.
WHERE: Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center,
415–556–6600.

SEATTLE, WA

WHEN: November 30; at 1:00 p.m.
WHERE: South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.
RESERVATIONS: Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
Seattle: 206–442–0570,
Tacoma: 206–383–7970,
Portland: 503–326–2222.

WASHINGTON, DC

WHEN: December 7, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

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

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Rules and Regulations

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2; Amdt. 49]

Certified Development Company Debenture Guarantees

AGENCY: Small Business Administration ("SBA").

ACTION: Final rule.

SUMMARY: This rule increases the overall project size for which Certified Development Company debenture guarantees may be approved by certain SBA officers, from one and one-half to two million dollars. This change will permit projects to be decided at the District Office level where adequate resources exist rather than being decided at the Regional Office level where adequate resources do not exist to provide timely service.

EFFECTIVE DATE: This rule is effective November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Wayne S. Foren, Director, Office of Economic Development, Small Business Administration, Room 720, 1441 L Street NW., Washington, DC 20416, Tel. (202) 653-6416.

SUPPLEMENTARY INFORMATION: Section 502(2) of the Small Business Investment Act, 15 U.S.C. 696(2), as originally enacted (Pub. L. 85-699, 72 Stat. 689) limited loans under that section to $350,000. This limit was raised to $500,000 by § 110 of Public Law 94-305, (90 Stat. 663). Public Law 100-418 (102 Stat. 1561) raised the limit to $750,000. These increased loan limits tend to increase the development company project size, since the development company debentures provide a percentage of the total project cost, typically the lesser of 40% or $750,000 (13 CFR 108.583-9(a)(8)). The rule now promulgated therefore increases the project size for which approval authority is delegated to certain officers in the field from $1,500,000 to $2,000,000.

Inasmuch as part 101 consists of rules relating to the Agency's organization and procedures, notice of proposed rule making, public participation, analysis under Executive Orders 12291 and 12612 and a regulatory flexibility review, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not required and this amendment is adopted without resort to these procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

Accordingly, part 101 of title 13, chapter I of the Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for part 101 continues to read as follows:

Authority: Secs. 4 and 5, Public Law 85-536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Public Law 85-699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Public Law 93-386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.3-2 [Amended]

2. In § 101.3-2, part III, section A, item 1.b is amended by removing therefrom "$1,500,000" and substituting therefor "$2,000,000"

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

Dated: October 3, 1989.

Susan Engeleiter,

Administrator.

[FR Doc. 89-26362 Filed 11-8-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 635, 710, 712, 713, 720, 740, and 751

RIN 2125-AB85

Relocation Assistance and Real Property Acquisition

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Technical amendments.

SUMMARY: Effective on April 2, 1989, 49 CFR part 25, which prescribed departmental rules for implementing the Uniform Relocation Act (Uniform Act) (42 U.S.C. 4601-4655), was removed and reserved (52 FR 48027) December 17, 1987. Part 25 was replaced by governmentwide rules implementing the Uniform Act, as amended, at 49 CFR part 24 (54 FR 8912) March 2, 1989. As a result of these changes, it is necessary that references in title 23 CFR to 49 CFR part 25 be corrected to refer to 49 CFR part 24. This document makes those corrections.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. F.D. Luckow, Chief, Program Requirements Division, Office of Right-of-Way, HRW-10, (202)-366-0116; or Mr. Reid Alsop, Office of Chief Counsel, HCC-40, (202) 366-1371, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590.

In consideration of the foregoing FHWA hereby amends parts 635, 710, 712, 713, 720, 740 and 751 of title 23 of the Code of Federal Regulations as set forth below.

PART 635—CONSTRUCTION AND MAINTENANCE [AMENDED]

§ 635.309 [Amended]

1. Section 635.309(c)(3) is amended by removing "49 CFR 25.204" in the first sentence and inserting in its place "49 CFR 24.204".

PART 710—RIGHT-OF-WAY—GENERAL [AMENDED]

2. The authority citation for part 710 is revised to read as follows:

Authority: 23 U.S.C. 101(a) and 315; 42 U.S.C. 2000d *et seq.*; 49 CFR 1.48(b) and parts 21 and 24; 23 CFR 1.4 and 1.32.

§ 710.203 [Amended]

3. Section 710.203(f) is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

§ 710.304 [Amended]

4. Section 710.304(o)(3)(iii) is amended by removing "49 CFR 25.6 of this subchapter" and inserting in its place "49 CFR 24.6".

PART 712—THE ACQUISITION FUNCTION [AMENDED]

5. The authority citation for part 712 is revised to read as follows and all other authority cititations which appear throughout part 712 are removed:

Authority: 23 U.S.C. 101(a), 107, 108, 111, 114, 204, 210, 308, 315, 317 and 323; 42 U.S.C. 2000d–1, 4633, 4651–4655; 49 CFR 1.48(b) and part 24; 23 CFR 1.32.

§ 712.204 [Amended]

6. Section 712.204(d)(5) is amended by removing "49 CFR part 25" in the first sentence and inserting in its place "49 CFR part 24".

§ 712.404 [Amended]

7. Section 712.404 is amended by removing "49 CFR 25.102(i)" and inserting in its place "49 CFR 24.102(i)".

PART 713—RIGHT-OF-WAY—THE PROPERTY MANAGEMENT FUNCTION [AMENDED]

8. The authority citation for part 713 is revised to read as follows and all other authority citations which appear throughout part 713 are removed:

Authority: 23 U.S.C. 101(a), 142(g), 156, and 315; 42 U.S.C. 4633 and 4651; 23 CFR 1.32; 49 CFR 1.48(b) and parts 21 and 24.

PART 720—APPRAISAL [AMENDED]

9. The authority citation for part 720 is revised to read as follows:

Authority: 23 U.S.C. 315; 23 CFR 1.32; 49 CFR 1.48(b) and part 24.

10. Section 720.201 is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

PART 740—RELOCATION ASSISTANCE [AMENDED]

11. The authority citation for part 740 is revised to read as follows:

Authority: 23 U.S.C. 315; 23 CFR 1.32; 49 CFR 1.48(b) and part 24.

12. Section 740.1 is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

13. Section 740.4(d)(2)(ii) is amended by removing "49 CFR part 25" and inserting in its place "49 CFR part 24".

PART 751—JUNKYARD CONTROL AND ACQUISITION [AMENDED]

14. Section 751.21 is amended by removing "49 CFR part 25" in the introductory paragraph and inserting "49 CFR part 24" in its place.

This document is issued under the authority of 23 U.S.C. 315 and 49 CFR 1.48.

List of Subjects in 23 CFR Parts 635, 710, 712, 713, 720, 740, and 751

Grant programs—Transportation, Highways and roads, Real property acquisition, Relocation assistance.

Issued on: October 27, 1989.

Larry L. Thompson,

Chief Counsel, Federal Highway Administration.

[FR Doc. 89–26354 Filed 11–8–89; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF EDUCATION

34 CFR Part 222

RIN 1810–AA49

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

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR part 222 to add Office of Management and Budget (OMB) control numbers to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Hansen, Director, Impact Aid Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2079, FOB–6), Washington, DC, 20202–6244, Telephone (202) 732–3637.

SUPPLEMENTARY INFORMATION: On September 7, 1989 final regulations governing eligibility, entitlement, and payment determinations under section 3(d)(2)(B) of the Impact Aid Program were published as amendments to 34 CFR part 222 (54 FR 37250).

The Secretary amends part 222 of title 34 of the Code of Federal Regulations as follows:

PART 222—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

1. The authority citation for part 222 continues to read as follows:

Authority: 20 U.S.C. 236–244–1, 242–244, unless otherwise noted.

§§ 222.3, 222.9, 222.10, 222.11, 222.14 through 222.17, 222.20, 222.22, 222.25, 222.33, 222.34, 222.36, 222.40, 222.72, 222.74, 222.125 through 222.129 [Amended]

2. Sections 222.3, 222.9 through 222.11, 222.14 through 222.17, 222.20, 222.22, 222.25, 222.33, 222.34, 222.36, 222.40, 222.72, 222.74, and 222.125 through 222.129 are amended by adding "(Approved by the Office of Management and Budget under control number 1810–0036)" following each section.

The effective date of certain sections of these regulations was delayed until information collection requirements contained in those sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has approved the information collection requirements, and these sections of the regulations will now become effective.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(b)(3).

List of Subjects in 34 CFR Part 222

Education, Education of the handicapped, Elementary and secondary education, Federally affected areas, Grant programs—education, Public housing, Reports and recordkeeping requirements.

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

Dated: November 3, 1989.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 89-26383 Filed 11-8-89; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[FRL-3644-3 KY-057]

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to procedures described at 54 FR 2214 (January 19, 1989), EPA recently approved a minor State Implementation Plan (SIP) revision. This notice identifies the revision EPA approved and incorporates the relevant material into the Code of Federal Regulations. Kentucky amended 401 KAR 50:015 to incorporate by reference Supplement A to the Guidelines on Air Quality Models. These modeling procedures are used in processing prevention of significant deterioration permits.

DATE: This action will be effective November 9, 1989.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 03065.

Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Richard Schutt of the EPA Region IV Air Programs Branch at the above address, telephone (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: EPA Region IV has approved the following minor SIP revision request under section 110(a) of the Clean Air Act (CAA):

State	Pollutant	Subject matter	Source	Date of submission	Date of approval
Kentucky	All criteria Pollutant	Supplement A to the Guidelines on Air Quality Models.	Statewide	February 9, 1989	March 23, 1989.

EPA has determined that this SIP revision complies with all applicable requirements of the CAA and EPA policy and regulations concerning such revisions. Due to the minor nature of this revision, EPA concluded that conducting notice-and-comment rulemaking prior to approving the revision would have been "unnecessary and contrary to the public interest," and hence was not required by the Administrative Procedure Act, 5 U.S.C. section 553(b). This SIP approval became final and effective on the date of EPA approval as listed in the chart above.

The Office of Management and Budget has exempted all SIP approvals from the requirements of section 3 of Executive Order 12291.

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

Under section 307(b)(1) of the CAA, as amended, judicial review of this action is available only be filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce their requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Ozone and sulfur oxide.

Note: Incorporation by reference of the SIP for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 25, 1989.

Lee A. DeHihns III,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.920 is amended by adding paragraph (c)(62) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(62) Revision to Kentucky Regulation 401 KAR 50:015, Documents incorporated by reference submitted on February 9, 1989, by the Kentucky Natural Resources and Environmental Protection Cabinet. Section 5(1)(a) was amended to incorporate by reference Supplement A to the Guideline on Air Quality Models (Revised), July 1987. Supplement A became effective February 5, 1988. Section 12(4) was amended to reflect the current phone number for the Florence Regional Office. The revisions to 50:015 became state effective October 26, 1988.

(i) Incorporation by Reference.

(A) Kentucky Regulation 401 KAR 50:015, Documents incorporated by reference, Section 12(4) was amended on October 26, 1988.

(B) Supplement A to the Guideline on Air Quality Models EPA-450/2-78-027R that became effective February 5, 1988.

(ii) Other material.

(A) Letter of February 9, 1989, from the Kentucky Natural Resources and Environmental Protection Cabinet.

[FR Doc. 89-26017 Filed 11-8-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 280

[FRL-3677-4]

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is today publishing an interim final rule amending the financial responsibility requirements for underground storage tanks containing petroleum which appeared in the Federal Register on October 26, 1988 (53 FR 43322). Specifically, EPA is interpreting the required language of endorsements to existing insurance policies under 40 CFR 280.97(b)(1) and

certificates of insurance under 40 CFR 280.97(b)(2). The provisions interpreted and amended include the requirement that all endorsements and certificates include a six-month extended reporting period for claims-made policies and that cancellations or terminations of insurance by insurers will be effective 60 days after written notice of such termination is received by the insured. The amendments published today will bring the financial responsibility requirements into greater conformity with insurance industry practices concerning cancellation and extended reporting and thus avoid possible impacts on the availability and affordability of such insurance.

DATES: The amendments to 40 CFR part 280 contained in this rulemaking published today were effective on October 26, 1989. EPA will accept comments on today's rulemaking that are submitted on or before December 11, 1989.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST-3), Office of Underground Storage Tanks (WH-562A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA, and all references used in this document, may be inspected in the public docket, located in Room LG-100, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC.

SUPPLEMENTARY INFORMATION: On October 26, 1988, EPA promulgated financial responsibility requirements applicable to owners and operators of underground storage tanks containing petroleum (53 FR 43322). The final rules permitted the owner or operator of a petroleum underground storage tank to satisfy the requirements by obtaining liability insurance from a qualified insurer or risk retention group.

Section 280.97 of the rules specified certain coverage terms that must be included in any new insurance policy or in any endorsement to an existing insurance policy. Except for limited opportunities to supply information regarding the parties to the contract, addresses, types of tanks, the scope of coverage, and so forth, the insurer and insured are not allowed to vary the language of the policy or the endorsement. Language in the endorsement and certificate of insurance found in § 280.97(b) require that the insurer attest to the fact that the language of the endorsement and certificate of insurance is identical to the form specified in the regulations. The Agency believes that the requirement of uniform language would ensure the availability of insurance to cover corrective action or third party damage payments.

Through meetings with insurers and segments of the regulated community, EPA has subsequently learned of the prevalence of certain interpretations of the required language of the certificate of insurance and endorsement not intended by EPA. EPA has received information indicating that insurers are reluctant to issue policies or to enter the underground storage tank insurance market so long as these interpretations are not refuted by EPA. Thus EPA is today setting forth its intended interpretations of the required language of the certificate of insurance and the endorsement as well as amending the certificate and endorsement to require that insurers use alternative language that more explicitly reflects the intended meaning of these provisions. EPA is not changing the requirements that the language of all endorsements and certificates of insurance be identical to that language found in the regulations. Instead, EPA is changing the exact nature of that mandatory identical language in accordance with the wishes of insurers and insureds.

EPA is not soliciting comments prior to the effective date of today's rulemaking. Under section 3(b) of the Administrative Procedures Act, 5 U.S.C. 553(b), the Agency may for good cause or where the rule is interpretative, omit notice and comment procedures. The Agency believes that it has good cause to omit notice and comment prior to the effective date of today's technical amendments. First, with the exception of changes to §§ 280.97(b)(1)(d), 280.97(b)(2)(d) and 280.105(a)(2), the Agency believes that notice and comment are unnecessary due to the non-substantive nature of the changes. These changes do not impose new substantive standards upon the regulated community, but rather require only that insurers substitute in future endorsements and certificates of insurance language that more carefully reflects the intended meaning of the currently required provisions.

Second, the Agency believes that it is in the public interest to omit notice and comment procedures with respect to all of the regulatory amendments made today, including those to §§ 280.97(b)(1)(d), 280.97(b)(2)(d) and 280.97(b)(2)(e), which govern termination due to non-payment of premium. The Agency has received information to the effect that these amendments may increase the availability of insurance policies to owners and operators of 100-999 tanks required to comply with the financial responsibility rule by October 26, 1989, as required by 40 CFR 280.91(b). At the same time, the Agency has received information that greater availability of insurance may ease the burden of compliance with the financial responsibility requirements among those owners and operators subject to the October 26, 1989, deadline. Finally, the information referred to was received too late to prepare and publish regulatory changes in response to this information before today. Thus the Agency has concluded that, due to the delays involved in such procedures, providing notice and comment on these amendments is contrary to the public interest. The delays consequent to soliciting and responding to public comments are likely to prevent these amendments from becoming effective in time for insurers entering the underground storage tank insurance market because of these amendments to prepare policies and for owners and operators to obtain these new policies by the October 26, 1989, deadline.

However, the Agency is soliciting comment on today's regulatory amendments. Comments may be submitted on or before December 11, 1989. Comments will be considered by the Agency and, if necessary, the Agency will issue a final rule changing today's amendments to respond to these comments.

The amendments to 40 CFR part 280 contained in today's rulemaking and effective today apply only to those insurance policies, endorsements and certificates of insurance that are issued or renewed after today's date. Thus policies, endorsements and certificates of insurance that were issued prior to today's date and in compliance with 40 CFR part 280 as written prior to today's rule will continue to be valid until such time as they are cancelled or terminated, or must be renewed.

I. Authority

These regulations are issued under the authority of sections 2002, 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9009 of the Solid Waste Disposal Act, as amended. The principal amendments to this Act have been under the Resource Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616) and the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-

499) (42 U.S.C. 6921, 6991, 6991(a), 6991(b) 6991(c), 6991(d), 6991(e), 6991(f), and 6991(h)).

II. Background

A. Six-month Extended Reporting Requirement for Claims-Made Policies

Mandatory language in the endorsement and certificate of insurance requires that a claims-made insurance contract cover claims for any occurrence that commenced during the term of the policy and that is discovered and reported to the insurer within six months of the effective date of the cancellation or other termination of the policy. The language of 40 CFR 280.97(b), Endorsement paragraph 2.e; § 280.97(b), Certification paragraph 2.e. reads: "The insurance covers claims for any occurrence that commenced during the term of the policy that is discovered and reported to the ['Insurer' or 'Group'] within six months of the effective date of the cancellation or termination of the policy.]" This provision was meant to address concerns that a claims-made policy might leave a gap in coverage, if, for example, a claim is reported after the expiration of a policy for a release that began prior to the policy expiration date. Such claims might not be covered by the usual claims-made policy that is issued in the insurance industry. This is discussed in the preamble to the October 26, 1988, final rule. 53 FR 43350–51.

Through discussions with representatives of the insurance industry, however, EPA has learned that the industry generally interprets EPA's extended reporting period provision to require that every claims-made policy issued, regardless of what retroactive date is incorporated, contain an extended reporting period. Because charging a fee for the extended reporting period is a widespread practice within the industry, this interpretation has caused insurance companies to routinely request payment for the extended reporting period at the start of the policy period. Due to a reluctance on the part of insureds to pay for this coverage at the beginning of a policy period when they expect to renew their policy or otherwise purchase a new policy with the same retroactive date as their prior policy, this interpretation is apparently impinging upon the availability of UST insurance.

As explained below, however, this prevalent interpretation of the extended reporting period is not intended by the Agency, and is in fact unnecessary to the protection of human health and the environment. EPA intends that insurers provide extended reporting period coverage only where the termination or non-renewal of the policy results in the owner or operator having no coverage for releases that occurred during the time period of the previous policy and which are reported within six months after the termination or non-renewal of that policy. For discussion purposes, EPA has labelled this predicament as a "gap" in coverage. Because a "gap" in coverage will not always exist at the termination or other non-renewal of every insurance policy, interpreting the EPA regulation to require every insurance policy to have an extended reporting period results in the provision of unnecessary coverage and, considering the industry's standard fee practice, an unnecessary restraint upon the availability of UST insurance. For instance, a "gap" in coverage will not normally occur where an existing policy is renewed. According to standard insurance industry practice, a renewed policy incorporates the retroactive date of the previous policy. Thus should the insured who renews his policy report a release that occurred during the time period of the previous policy, the release would be covered by the renewed policy. It may also be true that no "gap" will exist even when the insured purchases a new policy from a different insurance company. Many companies will incorporate the retroactive date of the insured's previous policy (as well as the same type of insurance coverage as provided by the previous policy) for releases that are reported during the time period of the new policy but which occurred during the time of the previous policy. Here, as in the case of renewed policies, the requirement to obtain an extended reporting period at the end of the first policy period would not be of any benefit to human health and the environment since the new policy provides the same coverage as that provided by the extended reporting period.

EPA believes that there are only two situations where the termination of a policy results in a "gap" in coverage and thus only two situations where the insured whose policy is terminated must obtain extended reporting period coverage. The first situation occurs where the insured renews his existing policy or purchases a new policy and the renewed or new policy contains a retroactive date subsequent to the retroactive date of the insured's previous insurance policy. The second situation occurs where the policy is terminated or is otherwise not renewed and the insured elects a financial assurance mechanism other than insurance (such as a guarantee, surety bond, etc.) as a replacement. EPA is today promulgating revised language to clarify EPA's intended interpretation of paragraph 2.e. of the Endorsement contained in § 280.97(b)(1) and of paragraph 2.e. of the Certification contained in § 280.97(b)(2).

In addition, EPA is also revising the language of these two paragraphs to state explicitly what it had previously believed to be self-evident: that claims reported to the insurer during the six-month reporting period are subject to all of the terms, limits and conditions that existed during the policy period that it modifies. Because the Agency has received questions on this matter since promulgating the October 26, 1988, rule, the Agency decided to add clarifying language on this point in addition to the more important changes to § 280.97(b) described above.

The language of paragraph 2.e. of the Endorsement and Certification in § 280.97(b) now reads:

> The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

Because EPA expects that these regulatory changes will result in owners and operators purchasing extended reporting period coverage, where needed, at the end, rather than the beginning of their policy period, EPA wishes to clarify exactly when such coverage must be obtained for compliance purposes. Where extended reporting period coverage is necessary, such coverage must be obtained before the time and date of the expiration of the prior policy.

A related issue raised by insurers concerns the possibility of double coverage through an expansive interpretation of what constitutes "termination" of the claims-made policy under § 280.97(b)(1) Endorsement paragraph (e), and § 280.97(b)(2) Certification paragraph (e),—the act that triggers the six-month extended reporting requirement discussed above. For example, under some state insurance laws, the mere addition or deletion of retail outlets from a company's insurance policy may constitute a "termination" of the policy.

Such a change would not constitute a "termination" under EPA's interpretation of that term. EPA interprets "termination" to encompass only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

Finally, the Agency wishes to clarify its position with respect to the current insurance industry practice of charging insureds for the six month extended reporting period. EPA's regulations require that owners and operators obtain a six-month extended reporting period whenever a gap in their insurance coverage may exist. EPA's regulations go to owners and operators and not to those providing the insurance required under the rules. Therefore, whether insurers choose to provide the extended reporting period to insureds only for an additional cost is of no concern to the Agency with respect to compliance with the financial responsibility requirements. Insurers are free to provide the extended reporting period only for an additional cost; however, insureds who fail to obtain such coverage due to non-payment of this added cost will be out of compliance with EPA's financial responsibility requirements.

B. Sixty Days Required Coverage Following Cancellation or Termination by Insurer

Mandatory language in the endorsement and certificate of insurance requires that cancellation or any other termination of the insurance by the insurer will be effective only upon written notice and only after expiration of 60 days after written notice is received by the insured. 40 CFR 280.97(b)(1) Endorsement paragraph d. and 280.97(b)(2) Certification paragraph d. A separate provision of the regulations restates this requirement for cancellation of insurance. 40 CFR 280.105(a)(2). Additionally, the insurer must provide a six-month extended reporting period following cancellation. These provisions were meant to ensure that an owner or operator whose insurance was cancelled or terminated would have sufficient time to obtain an alternative assurance mechanism, thereby avoiding any unacceptable gaps in coverage. These provisions did not distinguish between the effective date of cancellation where the cancellation was due to non-payment of premium or misrepresentation as opposed to cancellation for any other cause.

Subsequent discussions with insurers and segments of the regulated community that are seeking insurance have persuaded the Agency that the provision for extended coverage for sixty days following cancellation of coverage for non-payment of premium or misrepresentation is reducing the availability of insurance. The Agency has received indications that some insurers have decided against entering the market because of concerns that they might be forced to pay claims without ever having received any premiums or where the insured has made a misrepresentation. The Agency has also been informed that other insurers have increased premiums to protect against situations in which the insurer would have to pay for losses for which it has never collected a premium.

EPA is today amending the language of § 280.97(b)(1) Endorsement paragraph d, § 280.97(b)(2) Certification paragraph d and § 280.105(a)(2) to allow an insurer to terminate an insurance contract for non-payment of premium or misrepresentation by the insured after a 10 day notice period. EPA does not intend for this shortening of the coverage period from 60 to 10 days to apply to termination for any reason other than non-payment of premium or misrepresentation. The Agency is aware that some state insurance laws mandate a longer notice period following cancellation. In order to accommodate these state-specific situations, the amended language of § 280.97(b)(1) Endorsement paragraph d, § 280.97(b)(2) Certification paragraph d and § 280.105(a)(2) specifies that the mandatory coverage period following termination for non-payment of premium or misrepresentation shall be a "minimum of 10 days." The insurer is still bound to provide the owner or operator with written notice of cancellation with the 10 day period beginning upon receipt of notice by the owner or operator.

When the final rule was promulgated, the Agency believed that a 60-day cancellation coverage period was necessary to allow the insured owner or operator to obtain an alternative assurance mechanism, and thus avoid any unacceptable gap in coverage. The Agency thought that this requirement would not have a serious impact on insurance providers since insurers could protect themselves by establishing an appropriate schedule of premium payment. For example, insurers could require payment 90 days before the expiration date of coverage for maintenance or renewal of the policy. The insurer could then terminate the policy with 60 days notice if an insured does not meet the schedule of payment within 30 days of the premium due date.

Subsequently, the Agency has come to a better understanding of the economic impact on insurers of not allowing more than a 10-day cancellation period for non-payment of premium or misrepresentation. Insurers currently covering USTs have found restructuring premium payment schedules to be costly and impractical, primarily because the practice is a major departure from existing industry practices. An important consequence of the 60-day cancellation requirement for non-payment of premium or misrepresentation has been the deterrence of new insurers from entering the UST market.

Although the Agency continues to be concerned about the adequacy of the 10-day cancellation in terms of finding alternative financial assurance after cancellation for non-payment, EPA does not want this requirement to have an impact on the availability and affordability of UST insurance. The Agency believes that today's amendment will bring the financial responsibility requirements into greater conformity with insurance industry practices concerning cancellation and thus avoid possible impacts upon the availability and affordability of such insurance. Generally, EPA believes that the insurance industry should be paid for bearing the risks of corrective action and third-party liability costs. In the cases of non-payment, the industry is unfairly undertaking risks without rightful compensation. For those insurers resisting entry into the market, the threat of insuring risks without ever receiving any premium is apparently a serious concern. Thus, today's change should remove a serious obstacle to the supply of insurance to owners and operators of underground storage tanks.

The Agency is not amending the requirement for a six-month extended reporting period following cancellation for non-payment of premium or misrepresentation. As noted in the previous section, the Agency believes that such a reporting period must be mandatory for all claims-made insurance contracts used to demonstrate financial assurance, regardless of the reason for termination. The six-month extended reporting period is essential to avoiding gaps in coverage that could threaten human health and environment, especially in cases where the owner or operator may have as few as 10 days upon receipt of notice of cancellation to obtain substitute coverage. The distinction between the two provisions, extended reporting period and the

effective date of cancellation, is that even if a policy is cancelled for non-payment of premium, the extended reporting period merely extends the time during which an insured may report occurrences covered by the policy for which he or she has already paid. Thus the extended reporting provision does not provide the insured with a benefit for which he or she has not paid. In contrast, any delay in the effective date of a policy cancellation or termination due to regulatory requirements provides insureds who failed to pay their premiums coverage for which they have not paid.

C. Other Regulatory Changes

Today's action makes three other regulatory changes in the requirements for the language in the endorsement and certificate of insurance. As noted above, EPA is not changing the requirement that the language of all endorsements and certificates of insurance be identical to that language found in the regulations. Instead, EPA is changing the mandatory language itself to meet the needs of insurers and insureds.

While insurance policies issued in connection with the financial responsibility requirements must be amended by attaching the endorsement or evidenced by the certificate of insurance, the endorsement and certificate do not stand apart from the insurance policy. Some insurers were concerned that the existing mandatory language did not allow the parties to make the relationship between the scope of the policy and the requirements of the certificate and endorsement clear. The first two technical amendments made today are intended to make that connection.

First, the phrase "in accordance with the subject to the limits of liability, exclusions, conditions, and other terms, of the policy" is being added to the first paragraph of both the endorsement and certification after the explanation of what the endorsement and certificate provide to clarify that these instruments do not narrow or broaden the scope of coverage provided in the policy itself. This correction also brings the required regulatory language into conformity with standard UST insurance industry practices. The amendment should reduce any confusion on the part of insureds concerning the coverage they are purchasing and also minimize insurers' concerns about potential conflicts with insureds over the scope of coverage. The second phrase, "which are subject to a separate limit under the policy," is inserted in the language of the certificate and endorsement to modify the phrase "exclusive of legal defense costs" in paragraph 1 of the endorsement and certification where the limits of liability found in the policy are discussed. While the language of the endorsement and the certification prevent the insurer from describing any existing limits upon legal defense costs, EPA did not intend to indicate that such limitations are not allowable or that such limitations that may be present in the policy are not valid. The Agency does not want the mandatory language concerning legal defense costs to inerfere with the parties' understanding of the policy itself. Third, the phrase "after the policy retroactive date" is being added to specify the beginning of the period when occurrences are covered under the policy. It is common for insurers to establish such a date in a policy and use that date to determine when to divide coverage between policies when a second policy is coming into effect. Each of the above phrases being added conform to standard UST insurance industry usage and are not intended to change the requirements for the certificate and endorsement. These technical changes are effective immediately.

List of Subjects in 40 CFR Part 280

Administrative practice and procedure, Environmental protection, Hazardous materials insurance, Surety bonds, Underground storage tanks.

Dated: October 26, 1989.

Jonathan Z. Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

Accordingly, title 40 of the Code of Federal Regulations is amended as set forth below.

PART 280—TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS

1. The authority citation for part 280 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), and 6991(h).

2. Section 280.92 is amended to add the following new definition:

§ 280.92 Definition of terms.

* * * * *

(o) *Termination* under § 280.97(b)(1) and § 280.97(b)(2) means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

§ 280.97 [Amended]

3. In § 280.97(b)(1), under "*Endorsement:*", the first paragraph of 1. is amended by removing " 'accidental releases'; if" and adding " 'accidental release'; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if".

4. In § 280.97(b)(1), under "*Endorsement:*", in the second paragraph of 1., after "exclusive of legal defense costs." insert ", which are subject to a separate limit under the policy."

5. In § 280.97(b)(1), under "*Endorsement:*", in paragraph 2.d., after "['Insurer' or 'Group']" insert ", except for non-payment of premium or misrepresentation by the insured,"

6. In § 280.97(b)(1), under "*Endorsement:*", in paragraph 2.d., after "received by the insured." insert "Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured."

7. In § 280.97(b)(1), under "*Endorsement:*", the first paragraph of 2.e., is revised to read as follows:

* * * * *

2. * * *

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

* * * * *

8. In § 280.97(b)(2), under "*Certification:*", the first paragraph of 1., removing " 'accidental releases'; if" and adding " 'accidental releases'; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if".

9. In § 280.97(b)(2), under "*Certification:*", in the second paragraph of 1., after "exclusive of legal defense costs." insert ", which are subject to a separate limit under the policy."

10. In § 280.97(b)(2), under "*Certification:*", in paragraph 2.d., "['Insurer' or 'Group']" insert ", except for non-payment of premium or misrepresentation by the insured,".

11. In § 280.97(b)(2), under "*Certification:*", in paragraph 2.d., after

"received by the insured." insert "Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured."

12. In § 280.97(b)(2), under "*Certification:*", the first paragraph of 2.e., is revised to read as follows:

* * * * *

2. * * *

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

* * * * *

13. Section 280.105 is amended by revising paragraph (a)(2) to read as follows:

§ 280.105 Cancellation or nonrenewal by a provider of financial assurance.

* * * * *

(a) * * *

(2) Termination of insurance or risk retention group coverage, except for non-payment or misrepresentation by the insured, or state-funded assurance may not occur until 60 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured may not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

* * * * *

[FR Doc. 89-26104 Filed 11-8-89; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS-42108; FRL 3662-7]

RIN 2070-AB07

Testing Consent Order on Crotonaldehyde

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document announces that EPA has signed an enforceable testing Consent Order with Eastman Kodak Company (Kodak). Kodak has agreed to perform certain chemical fate and environmental effects tests on crotonaldehyde (CAS No. 4170-30-3). Kodak may also perform a monitoring study for crotonaldehyde, as described in this notice and detailed in the Order. This action, in response to the Toxic Substances Control Act (TSCA) Interagency Testing Committee's (ITC's) designation of crotonaldehyde for testing consideration, adds crotonaldehyde to the list of testing Consent Orders in 40 CFR 799.5000 for which the export notification requirements of 40 CFR part 707 apply.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under procedures described in 40 CFR part 790, Kodak has entered into a testing Consent Order with EPA in which Kodak has agreed to perform certain chemical fate and environmental effects tests for crotonaldehyde. This rule amends 40 CFR 799.5000 by adding crotonaldehyde to the list of chemical substances and mixtures subject to testing Consent Orders.

I. ITC Recommendation

In its twenty-second Report to EPA, published in the **Federal Register** of May 20, 1988 (53 FR 18196), the Interagency Testing Committee (ITC) recommended with intent- to-designate that crotonaldehyde be considered for environmental effects and chemical fate testing. the recommended environmental effects testing was acute toxicity to algae, fish, and aquatic invertebrates. Recommended chemical fate testing was volatilization rate from water and aerobic aquatic biodegradation.

EPA responded to the ITC's designation of crotonaldehyde by holding a public focus meeting on June 17, 1988, announcing that it would pursue testing for crotonaldehyde, either by a TSCA section 4 testing rule or by a Consent Order. The proposed testing would include both chemical fate and environmental effects.

In its Twenty-third Report, published in the **Federal Register** of November 16, 1988 (53 FR 46262), the ITC followed on its recommendation by designating crotonaldehyde for response by EPA within 12 months.

II. Testing Consent Order Negotiations

In the **Federal Register** of May 20, 1988 (53 FR 18196), and in accordance with the procedures established in 40 CFR 790.28, EPA requested persons interested in participating in or monitoring testing negotiations on crotonaldehyde to contact EPA. EPA held public meetings with interested parties on July 21, 1988, October 19, 1988, and March 3, 1989, to discuss the testing appropriate for crotonaldehyde. On October 2, 1989 EPA and Kodak signed a testing Consent Order for crotonaldehyde. A consent order is not based on a formal finding and expedites testing, while retaining the same TSCA penalty provisions applicable under rulemaking. Under the Order, Kodak has agreed to conduct or provide for the conduct of aquatic toxicity tests and aerobic aquatic biodegradation testing. Kodak has also agreed to perform chronic toxicity testing of aquatic organisms depending on the results of the acute toxicity testing and, if conducted, the results of effluent monitoring. the specific test standards to be followed and the testing schedule for each test are included in the Order. Procedures for submitting study plans, modifying the Order, monitoring the testing and other provisions are also included in the Order.

III. Use and Exposure

Crotonaldehyde, also known as 2-butenal, is a four-carbon aldehyde having a double bond between the alpha and beta carbon atoms. Crotonaldehyde is typically manufactured by aldol condensation of acetaldehyde followed by dehydration (Ref. 1). Crotonaldehyde is liquid at environmental temperatures (Ref. 2). It is highly soluble in water (181 g/L, measured), moderately volatile (estimated Henry's law constant of 1.681×10^{-5} atm m^3/mole at 20°C), and has an estimated low Log P value of 0.55 (Refs. 3, 4, and 5).

Crotonaldehyde is used mostly as an intermediate to produce crotonic acid, sorbic acid, 3-methoxybutanol and *n*-butanol. Less commonly, it may have such diverse uses as an additive to wool to reduce solubility in alkali, a plasticizer of terpene resins, and a deodorizer in the paper industry, and in the preparation of some pesticides (Ref. 1).

Crotonaldehyde is produced in the United States by only one company, Kodak, which produces crotonaldehyde by a continuous process with a reported 1987 production volume between 5 and

15 million pounds (Ref. 6). No imports of crotonaldehyde into the United States are currently reported; however, in 1985, 930,953 pounds of crotonaldehyde were imported into the United States from Mexico (Ref. 7).

Kodak reports that is converts approximately one–third of the crotonaldehyde that it produces into crotonic acid, using an enclosed process. Kodak believes that all of the crotonaldehyde that it sells is used as a chemical intermediate, and none is used to formulate products (Ref. 8).

Kodak estimates that up to 20 manufacturing workers might be exposed to crotonaldehyde. Worker exposure levels, determined by industrial monitoring, are generally less than 0.01 ppm (8–h Time–Weighted Average (TWA)); Kodak reported a single maximum exposure level of 1.13 ppm, which occurred under an upset condition (Ref. 8.).

Environmental exposures to crotonaldehyde can occur during its transportation, use, processing, and manufacture. EPA has estimated exposures to crotonaldehyde at Kingsport, TN, the site of Kodak's effluent discharge to the Holston River, to be 65 ppb during mean river flow conditions and 350 ppb during strictly natural 7Q10 low flow conditions (i.e., the lowest 7–day average river flow expected to occur once every 10 years). Monthly average concentrations are expected to range from 45 ppb to 87 ppb (Ref. 4). However, it should be noted in this context that the Holston River's flow is not as variable as it would be if it were a "wild" river, as its flow is controlled by contractural arrangements with the Tennessee Valley Authority (TVA) through several dams and holding ponds located on the River. EPA is examining what effects these contractual arrangements with TVA have on mitigating the Holston's natural flow variability and, hence, on the predicted concentrations of crotonaldehyde in the River.

Crotonaldehyde also occurs naturally, having been found in strawberries, algae–containing sedimentary deposits, and humans, apparently being produced as a metabolite of other substances (Refs. 5, 9, and 10). Crotonaldehyde is also a common combustion product of wood and hydrocarbon–based fuels (gasoline, jet fuel, etc.). Concentrations of crotonaldehyde in the exhaust/smoke from these sources have been measured, and range from 6 ppb to 116 ppm, with the highest values found in wood smoke (Refs. 5 and 11 through 13).

IV. Testing Program; Chemical Fate and Environmental Effects

The ITC recommended crotonaldehyde for chemical fate and environmental effects testing. The ITC did not recommend health effects testing, stating that crotonaldehyde has been extensively studied for health effects. EPA concurs with the ITC's recommendations.

Specifically, the ITC recommended aquatic biodegradation and volatility testing and acute aquatic toxicity testing.

A. Chemical Fate Testing

Volatilization of crotonaldehyde can be estimated using the calculated Henry's Law constant. The estimate thus obtained indicates that crotonaldehyde has a moderate volatilization half–life of 60 to 70 hours at 20 °C (Ref. 14). In air, crotonaldehyde photolyzes relatively quickly, with a half–life of only a few hours (Ref. 14). Information on crotonaldehyde's removal by acclimated sludge shows 37 percent removal of maximum theoretical oxygen demand, (ThOD) (Ref. 11). EPA estimates that, during wastewater treatment, 40 percent of crotonaldehyde will be removed, mostly by biodegradation (Ref. 4).

In view of this information, and information on crotonaldehyde's release to the environment, the ITC recommended additional studies on volatilization from water and aerobic biodegradation. Specific testing on these key removal processes would enable EPA to better predict crotonaldehyde's fate in the environment.

EPA intends that the chemical fate and environmental effects testing needed for crotonaldehyde be conducted under the sponsorship of Kodak under this Consent Order.

Although the ITC recommended both volatility and aerobic aquatic biodegradation testing, the chemical fate testing is limited in this Consent Order to the biodegradation testing for technical reasons. At the present time, EPA considers reliable tests for determining volatility to be available only for high- or low-volatility chemicals, but not for medium-volatility substances, such as crotonaldehyde. Therefore, EPA will continue to depend upon estimates of crotonaldehyde's volatility, as given in Unit III of this document. An indication of volatility will also be obtained during the algal bioassay, wherein the Consent Order requires that losses of test substance due to volatility be roughly estimated by measuring concentrations of crotonaldehyde in the test chambers and comparing these to the nominal, expected concentrations. The results of this volatility "measurement" are also relevant to the type of aerobic aquatic biodegradation test to be performed. If volatility, as observed in the algal assay, is greater than 15 percent over 96 hours, then a closed-bottle test (40 CFR 796.3200) shall be used; if volatility is less than or equal to 15 percent, then the modified Organization for Economic Cooperation and Development (OECD) test (40 CFR 796.3240) shall be used. Protocols and decision criteria as to which test will be used are specified in the Consent Order, and testing will be in accordance with the schedules and test protocols specified in the Order.

B. Environmental Effects Testing

Crotonaldehyde has been tested using a number of different aquatic organisms. The most relevant tests have been static 96–hour bioassays with bluegills, Lepomis macrochirus (96–hour LC_{50} of 3.5 mg/L), fathead minnows, Pimephales promelas (96–hour LC_{50} of 2.8 mg/L), and a saltwater fish, the tidewater silversides, Menidia beryllina (96–hour LC_{50} of 1.3 mg/L) (Refs. 15 and 16).

These acute toxicity values demonstrate that crotonaldehyde may have significant acute toxicity to marine and freshwater fish. Since the data were obtained using often less reliable static bioassay systems, the ITC recommended additional acute toxicity testing in flow-through or static-renewal tests. The ITC also recommended that additional environmental species be tested, to include algae.

Kodak has agreed to conduct or sponsor the conduct of acute toxicity tests on five species: –The algal species, Selanastrum capricornutum; two freshwater invertebrate species, the daphnid, Daphnia magna, and the gammarid, Gammarus fasciatus; and two freshwater fish species, the fathead minnow, Pimephales promelas, and the rainbow trout, Oncorhynchus mykiss (formerly Salmo gairdneri). All of these tests will be performed in accordance with the schedules and test protocols specified in the Order.

The Consent Order also requires daphnid chronic toxicity testing and fish early life stage (ELS) toxicity testing on the more sensitive fish (rainbow trout or fathead minnow). This aquatic chronic toxicity testing is required because EPA has calculated that the ratio of acute toxicity (48–hour or 96-hour EC_{50} or LC_{50} value) to the predicted environmental concentration (PEC) of crotonaldehyde in the Holston River is less than or equal to 100. If the fish acute toxicity data are equivocal regarding relative species sensitivity, EPA and Kodak will, if

requested by Kodak, meet to discuss the interpretation of the acute toxicity data as to which fish species will be required to undergo early life stage (ELS) testing. If Kodak and EPA cannot come to agreement, EPA has the final authority in selecting the test species. EPA will provide Kodak in writing with its reasoning for requiring one test species over another.

Kodak believes EPA's PEC for the Holston River is too high, and has volunteered to measure effluent crotonaldehyde concentrations from their facility in Kingsport, Tennessee, that releases wastewater to the Holston River. Independent of the results of these effluent measurements, EPA will use two alternate criteria to require the chronic aquatic toxicity testing: (1) If any EC_{50} or LC_{50} value from conducting the five acute tests listed above is less than, or equal to, 1.0 mg/L, or (2) if any fish or aquatic invertebrate toxicity EC_{50} or LC_{50} value is less than, or equal to, 100 mg/L and there is also an indication of potential cumulative toxicity (the ratio of 24–hour to 48–hour or 24–hour to 96–hour toxicity values is greater than, or equal to, 2).

Daphnid chronic toxicity testing and fish ELS testing will not be required if all of the following conditions are met:

1. All five acute toxicity test values are greater than 1.0 mg/L.

2. All fish and aquatic invertebrate toxicity test values are less than or equal to 100 mg/L and there is no potential cumulative toxicity as defined in the Consent Order, or all fish and aquatic invertebrate toxicity test values are greater than 100 mg/L.

3. Aquatic concentration modelling by EPA using Kodak's measured effluent crotonaldehyde concentrations and best available flow data for the Holston River demonstrate that the ratio of the lowest acute toxicity value to the PEC (using the 7Q10 as the reference value) is greater than 100.

Neither the ITC nor EPA believes that bioconcentration will pose any environmental hazards. the low Log P of crotonaldehyde, estimated to be 0.55, strongly suggests that there is no significant potential for bioconcentration (Ref. 5).

C. Monitoring Study

EPA and Kodak have also included an optional monitoring study in the Consent Order. Wastewater effluent from Kodak's Kingsport plant, which ultimately empties into the Holston River, may be monitored for crotonaldehyde concentrations. Kodak may monitor its own wastewater effluent rather than the Holston River, itself, for reasons of ease (a less complicated experimental design) and expense (fewer samples needed for a comparably accurate measure of statistical variability). There is a trade–off, however, in that EPA will need to use the effluent monitoring data earlier in its environmental model calculations than would be the case with river sampling data. Nonetheless, the measured concentrations from the effluent should give more accurate estimates of crotonaldehyde concentrations in the river than do present estimates, which are based mainly on theoretical considerations. The effluent monitoring study will also address the question of the efficiency of removal of crotonaldehyde by Kodak's wastewater treatment system, which EPA has estimated to be 40 percent.

EPA's basic interest in this study lies in whether or not it will refute or verify the need for chronic toxicity testing of crotonaldehyde on aquatic species based on present PEC and acute toxicity data. Therefore, this study is not required, and Kodak has discretion as to whether or not it is conducted. If Kodak chooses not to conduct the monitoring study, EPA will rely on the currently existing exposure estimates, along with the results of the acute toxicity tests to determine whether chronic toxicity tests shall be conducted. Obviously, if the acute testing required under the Consent Order indicates a need for chronic testing (by an EC_{50} or LC_{50} value less than, or equal to, 1.0 mg/L or potential cumulative toxicity), as described in Unit IV.B of this notice, then Kodak would forego the monitoring study, because its results will have no effect on the chronic toxicity testing requirement. Kodak may also decide, for other reasons, to proceed with the chronic testing regardless of the acute toxicity testing results and without performing the monitoring study.

If Kodak decides to perform the monitoring study, then the study design and schedule that must be followed are those specified in the Consent Order. If Kodak decides not to perform the monitoring study, then it must notify EPA of its decision and proceed with chronic testing on the daphnid and the most sensitive fish species, as is also specified in the Consent Order.

D. Test Standards and Schedules

The tests, their standards, and schedules are those specifically contained in the Consent Order for crotonaldehyde. The basic test standards are as follows:

Standard	Guideline in 40 CFR
Fresh water algal acute	797.1050
Daphnid acute	797.1300
Gammarid acute	797.1310
Rainbow trout acute	797.1400
Fathead minnow acute	797.1400
Daphnid chronic	797.1330
Fish early life stage	797.1600
Aerobic biodegradation	796.3200 or 796.3240
Effluent monitoring	[1]

[1] Testing protocoldevelopment by Kodak, reviewed and approved by EPA, and specified in the Consent Order

All of the above test standards have undergone certain minor modifications. these modified standards have been appended to the Consent Order.

Testing will be in accordance with the following schedule:

Test	Reporting requirement	Final report date
Freshwater algae acute	12 months	November 9, 1990.
Daphnid acute	12 months	Do.
Gammarid acute	12 months	Do.
Rainbow trout acute	12 months	Do.
Fathead minnow acute	12 months	Do.
Aerobic biodegradation	12 months	Do.
Effluent monitoring	18 months	May 9, 1991.
Daphnid chronic	21 months [1]	August 9, 1991.
Fish early life stage	21 months [1]	Do.
Daphnid chronic	27 months [2]	February 10, 1992.
Fish early life stage	27 months [2]	Do.

[1] This schedule applies if the effluent monitoring study is not performed, or if acute or potential cumulative toxicity data indicate a need for chronic testing.
[2] This schedule applies if the effluent monitoring study is performed and exposure data still indicate a need for chronic testing.

EPA has specified a longer time than normal for the toxicity and aerobic biodegradation tests, because of volatility questions and a need to develop some practical volatility data relevant to the conduct of these tests (i.e., use of open or closed systems, appropriate flow rate factors). Thus, EPA is allowing 12 months from the effective date to the final report due date for these tests for crotonaldehyde.

The final report for each test shall be submitted to EPA as soon as it becomes available, but no later than the date specified. For all except the five acute studies and the biodegradation study, interim progress reports shall also be submitted every 6 months, beginning 6 months after the effective date of this final rule.

V. Export Notification

The issuance of the Consent Order subjects any person who exports or intends to export crotonaldehyde, to the export notification requirements of section 12(b) of TSCA. The specific requirements are listed in 40 CFR part 707. In the Interim Rule of June 30, 1986 (51 FR 23706), establishing the Testing Consent Order process, EPA added subpart C of part 799 for listing of chemical substances or mixtures subject to testing consent orders issued by EPA. This listing serves as notification to persons who export or intend to export chemical substances or mixtures which are the subject of testing Consent Orders that 40 CFR part 707 applies.

VI. Rulemaking Record

EPA has established a record for this rule and the Consent Order (docket number OPTS–42108). This record contains the basic information considered by EPA in developing this rule and the testing Consent Order.

This record includes the following information:

A. Supporting Documentation

(1) Testing Consent Order between Kodak and EPA.

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

(a) Notice containing the ITC's recommendation of crotonaldehyde to the Priority List (53 FR 18196; May 20, 1988).

(b) Notice containing the ITC's designation of crotonaldehyde to the Priority List (53 FR 46262; November 16, 1988).

(c) Notice of the interim final rule on procedures for developing enforceable consent agreements (51 FR 23706; June 30, 1986).

(3) Communications consisting of:

(a) Written letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries.

(4) Reports—published and unpublished factual materials.

B. References

(1) Kirk-Othmer. *Kirk-Othmer Encyclopedia of Chemical Technology*. New York, N.Y. John Wiley & Sons, Inc. Vol. 7. pp. 207–218. (1979).

(2) Sax, N.I., and Lewis, R.J., Sr. *Hawley's Condensed Chemical Dictionary*. 11th rev. ed. New York. Van Nostrand Reinhold Co. p. 323. (1987).

(3) Merck. *The Merck Index*. 10th edition. Windholz, M., ed. Rahway, N.J. Merck & Co. p. 372. (1983).

(4) Nold, A. Memorandum on crotonaldehyde aquatic ecological assessment Annette Nold to John Walker. U.S. Environmental Protection Agency. (April 5, 1988).

(5) NRC. National Research Council. "Formaldehyde and other aldehydes". Washington, DC. National Academy Press. (1981).

(6) Tennessee Eastman Company. Kingsport, TN 37662. Letter to Dr. Robert H. Brink, Interagency Testing Committee. (June 19, 1987).

(7) USDOC. U.S. Department of Commerce. "U.S. Imports for Consumption and General Imports." Washington, DC. U.S. Bureau of the Census. Publication No. FT246. p. 1–580. (1985).

(8) Eastman Kodak Company, Kingsport, TN 37662. Letter to Mr. John Schaeffer, Office of Pesticides and Toxic Substances, EPA. (August 16, 1988).

(9) Gadel, F., and Bruchet, A. "Application of pyrolosis-gas chromatography-mass spectrometry to the characterization of humic substances resulting from decay of aquatic plants in sediments and water." *Water Research* 21:1195–1206. (1987).

(10) Krotoszynski, B.K., and O'Neill, H.J. "Involuntary bioaccumulation of environmental pollutants in nonsmoking heterogeneous human populations." *Journal of Environmental Science and Health*. A17:855–883. (1982).

(11) Verschueran, K. *Handbook of Environmental Data on Organic Chemicals*. 2nd ed. New York, N.Y. Van Nostrand Reinhold Co. pp. 410–431. (1983).

(12) Miyamoto, Y. "Eye and respiratory irritants in jet engine exhaust." *Aviation, Space and Environmental Medicine*. 57:1104–1108. (1986).

(13) Lipari, F., Dash, J.M., and Scruggs, W.F. "Aldehyde emissions from wood-burning fireplaces." *Environmental Science and Technology*. 18(5):326–330. (1984).

(14) Dynamac Corporation, Rockville, MD 20852. *Crotonaldehyde*. IR-497. EPA Contract No. 68–02–4251. (June 15, 1988).

(15) Dawson, G.W., Jennings, A.L., Drozdowski, D., and Rider, E. "the acute toxicity of 47 industrial chemicals to fresh and saltwater fishes." *Journal of Hazardous Materials*. 1:303–318. (1977).

(16) Union Carbide, Danbury, CT 06817. Letter to U.S. Environmental Protection Agency. (May 2, 1986). 8D–878216446.

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

VII. Other Regulatory Requirements

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the Consent Order under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033.

Public reporting burden for this collection of information is estimated to average 1,431 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Management and Budget, Paperwork Reduction Project (OMB Control No. 2070–0033), Washington, DC 20503.

List of Subjects in 40 CFR Part 799

Testing procedures, Environmental protection, Hazardous substances, Chemicals, Chemical export, Recordkeeping and reporting requirements.

Dated: October 2, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation continues to read as follows:

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

2. Section 799.5000 is amended by adding crotonaldehyde to the Table in CAS Number Order to read as follows:

§ 799.5000 Testing consent orders.

* * * * *

CAS number	Substance or mixture name	Testing	FEDERAL REGISTER Citation
4170-30-3.....	Crotonaldehyde.	Environmental effects. Chemical fate.	November 9, 1989. November 9, 1989.

[FR Doc. 89-26445 Filed 11-8-89; 8:45 am]
BILLING CODE 6560-50

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Part 803

RIN 2900-AE32

VA Acquisition Regulation: Internal Management of the VA Acquisition System

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending the VA Acquisition Regulation (VAAR) to add implementing instructions for Procurement Integrity, section 6 of the Office of Federal Procurement Policy Act Amendments of 1988. VA contracting officers are authorized to designate persons to have access to proprietary and source selection information; certification by procurement officials who leave the Government will be accomplished as part of the out processing clearance process; guidance is provided for the conduct of investigations of possible violations of the Act; certifications by procurement officials regarding their familiarity with the Act will be filed in the VA's official Personnel Files; and organizations requesting contract action exceeding $25,000 are to provide lists of procurement officials. These regulations will effectively implement the requirements of the Procurement Integrity statute in the most efficient means possible, protecting the integrity of the procurement process and the interests of administrative efficiency.

EFFECTIVE DATE: November 23, 1989.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Acquisition Management Service (93), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, (202) 233-3054.

SUPPLEMENTARY INFORMATION:

I. Background

This regulation adds internal administrative implementation of the Procurement Integrity requirements of the Office of Federal Procurement Policy Act Amendments Act of 1988. One of the more administratively cumbersome aspects of the Act is determining the most efficient means of obtaining the required certifications of procurement officials and where best to file the certifications. This regulation requires that such certifications be included in the Official Personnel File (OPF) of the respective procurement official. Furthermore, when a procurement official leaves the Government, the required certification that he or she understands his or her continued obligation not to disclose proprietary or source selection information will be accomplished as part of the normal personnel clearance procedure. This process is considered more administratively efficient and less subject to errors of omission than the procedure prescribed in the FAR. Consequently, a class deviation to the FAR has been processed.

This regulation prescribes that organizations requesting contract services exceeding $25,000 provide the contracting officer a list of all procurement officials and certify that each identified procurement official has certified his or her understanding of the Act and that such a certification has been sent to their respective OPF.

Guidance is provided regarding the conduct of investigations of suspected violations of the Act and how to process the resulting findings.

II. Executive Order 12291

Pursuant to the memorandum from the Director, Office of Management and Budget, to the Administrator, Office of Information and Regulatory Affairs, dated December 13, 1984, this proposed rule is exempt from sections 3 and 4 of Executive Order 12291.

III. Regulatory Flexibility Act (RFA)

These changes are internal VA management policies and therefore public participation is unnecessary (38 CFR 1.12 and 5 U.S.C. 553(d)(3)). Since a notice of proposed rulemaking is unnecessary and will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), and are therefore not subject to the requirements of the Act. Nevertheless, these amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612.

IV. Paperwork Reduction Act

These amendments do not impose any additional reporting or recordkeeping requirements on the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 803

Government procurement.

Approved: October 31, 1989.

Edward J. Derwinski,

Secretary.

PART 803—[AMENDED]

48 CFR chapter 8, Department of Veterans Affairs, is revised as set forth below:

1. The authority citation for Subpart 803.1 continues to read as follows:

Authority: 38 U.S.C. 310 and 40 U.S.C. 486(c).

2. In subpart 803.1, sections 803.104, 803.104-5, 803.104-9, 803.104-11, 803-104-12 are added to read as follows:

Subpart 803.1—Safeguards

* * * * *

803.104 Procurement integrity.

803.104-5 Disclosure of proprietary and source selection information.

(a) Contracting officers are authorized to designate persons or classes of persons to have access to proprietary and source selection information pertaining to procurements for which they are responsible. Individuals, or classes of individuals, who have been provided access for a specific procurement will be listed in the contract file.

(b) Contracting officers will only release source selection or proprietary information when access is necessary to the conduct of the procurement and only to procurement officials who have a need to know and who have verified that they have certified their familiarity with the Office of Federal Procurement Policy Act Amendments of 1988 in accordance with FAR 3.104-12. (Clerical personnel or other persons who may require access to proprietary information and who are not procurement officials must be included in the list identified in paragraph (a)). Furthermore, such persons must be informed of their obligation not to disclose such information, since the nondisclosure provision of the Procurement Integrity statute applies to nonprocurement officials as well.)

803.104-9 Certification requirements.

The certification required by FAR 3.104-6(b) regarding the certification of procurement officials who leave Government during a procurement will be made through normal personnel clearance procedures and will be maintained in the official personnel file in lieu of the contract file. (This is a FAR deviation authorized in accordance with FAR Subpart 1.4 and VAAR Subpart 801.4).

803.104-11 Processing violations or possible violations.

(a) If the contracting officer determines that the reported violation or possible violation has no impact upon a pending award, the contracting officer will obtain the concurrence of the Head of the Contracting Activity (HCA) prior to making award. The contracting officer will provide all necessary supporting data to the HCA. All such reported violations will be transmitted to the Office of General Counsel (025) through the Deputy Assistant Secretary for Acquisition and Material Management (93). The HCA will also inform his or her senior management if the reported violation or possible violation involves a VA employee.

(b) When the contracting officer concludes that the violation or possible violation impact contract award or the contract itself, the contracting officer will withhold award and promptly notify the HCA. The HCA shall be provided all relevant information with recommendations from the contracting officer. The HCA is responsbile for taking the appropriate actions specified in FAR 3.104-11(b) and making the determinations specified in FAR 3.104-11(c). As part of the deliberations, the HCA should utilize all resources available, including legal counsel, IG investigative services, and Acquisition Management Service (93). The HCA is encouraged to seek advice from these offices prior to making the final determination as to the appropriate course of action.

(c) The final report and determination made in accordance with FAR 3.104-11 (b) and (c) and all supporting documentation will be transmitted to the General Counsel (025) through the Deputy Assistant Secretary for Acquisition and Material Management (93).

803.104-12 Ethics program training requirements.

(a) Certifications required by FAR 3.104-12(a)(2) will be filed in the procurement official's Official Personnel File (OPF). Contracting officers may request that procurement officials provide confirmation that they have certified and may request copies of the actual certification as part of the confirmation process.

(b) For acquisition exceeding $25,000, the office requesting contract action will provide a list of all procurement officials for the procurement at the time the request is submitted for procurement action. The requesting organization will certify that all such listed procurement officials have certified their familiarity in accordance with FAR 3.104-12(a)(2) and that those certifications have been included in the respective OPFs. The requesting organization is also responsible for updating the list as additional procurement officials are added, or as procurement officials are removed.

(c) In accordance with Office of Personnel and Labor Relations' directives, recruitment and promotion actions will identify those positions having potential for procurement official functions and will require certification from the selectee.

[FR Doc. 89-26357 Filed 11-8-89; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 592

[Docket 89-6; Notice 3]

RIN 2127-AC97

Registered Importers of Vehicles Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendments; final rule.

SUMMARY: This notice contains technical amendments of the final rule published on September 29, 1989, which established requirements for the registration of importers of motor vehicles not originally manufactured to conform to the Federal motor vehicle safety standards. References to agents of the registered importer in § 592.5 (c) and (d) are deleted. The amount of the bond referred to in § 592.6(a) is corrected to accord with that prescribed in part 591. A redundancy in paragraphing in that section is corrected by redesignating certain paragraphs. A word inadvertently omitted in § 592.8(g) is inserted.

EFFECTIVE DATE: The amendments are effective on November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, Washington, DC (202-366-5263).

SUPPLEMENTARY INFORMATION: On September 29, 1989, the agency established 49 CFR part 592 *Registered Importers of Vehicles Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards* (54 FR 40083). This action was in partial implementation of Public Law 100-562 The Imported Vehicle Safety Compliance Act of 1988. Under section 592.8(a), one of the duties of a registered importer is to furnish a bond "in an amount not less than the entered value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150% of such value", to ensure that the vehicle is brought into compliance with the Federal safety standards. This was the bond amount specified by the 1988 Act, and proposed by NHTSA. However, in developing the final rules implementing the 1988 Act, NHTSA decided to require that the performance bond be the higher value, 150% of the entered value of the vehicle. This decision was reflected in the final rule on importation of motor vehicles, 49 CFR part 591 *Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards* (54 FR 40069). In this rule, an importer of a nonconforming vehicle declares, in pertinent part that he has furnished a bond equal to 150% of the entered value of the vehicle (section 591.5(f)(1)), and the importer's declaration must be accompanied by a bond in an amount equal to 150% of the entered value of the vehicle (section 591.6(c)). Accordingly, NHTSA is amending § 592.8(a) to specify the amount of the bond required by part 591.

When part 592 was proposed, it was contemplated that a registered importer could have agents to perform the actual compliance modifications on vehicles for which it was obliged to provide a certification of conformity to the Administrator. Because of comments to the docket, the agency decided that the purpose of the legislation would be better accomplished if registered importers had direct responsibility for conformance work, and the final rule sought to delete all references to agents. However, the agency overlooked two references to agents, and §§ 592.5 (b) and (c) are amended to remove these references.

As published, § 592.6(b) is followed by another paragraph, also designated (b).

This error is corrected by redesignating the second paragraph (b) as paragraph (c), and redesignating succeeding paragraphs as appropriate. There do not appear to be any cross-references in part 592 or any other regulation requiring correction.

Finally, in § 592.8(g), the word "bond" was inadvertently omitted after the word "performance", and has been reinstated.

Because the amendments are technical in nature and have no substantive impact, it is hereby found that notice and public comment thereon are unnecessary. Further, because the amendments are technical in nature, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest, and the amendments are effective upon publication in the Federal Register, or October 30, 1989 (the effective date of part 592), whichever last occurs.

List of Subjects in 49 CFR Part 592

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing part 592 of 49 CFR is amended as follows:

PART 592—[AMENDED]

1. The authority citation for part 592 continues to read as follows:

Authority: Pub. L. 100–562, 15 U.S.C. 1401, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

§ 592.5 [Amended]

2. The first sentence of § 592.5(c) is amended by deleting the phrase "and/or its agents" so that the sentence ends with the word "applicant."

3. The second sentence of § 592.5(d) is amended by deleting the phrase "and agents, if any" so that the sentence ends with the word "applicant."

§ 592.6 [Amended]

4. Section 592.6(a) is amended by deleting the phrase "a bond in an amount not less than the entered value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150 per cent of such value," and replacing it with the phrase "a bond in an amount equal to 150 per cent of the entered value of the vehicle, as determined by the Secretary of the Treasury,".

5. In § 592.6, the second paragraph (b) is redesignated paragraph (c). Paragraphs (c), (d), (e), (f), (g), (h), and (i) of that section are redesignated respectively paragraphs (d), (e), (f), (g), (h), (i), and (j).

§ 592.8 [Amended]

6. Section 592.8(g) is amended by adding the word "bond" between the words "performance" and "shall."

Issued on: November 3, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89–26382 Filed 11–8–89; 8:45 am]

BILLING CODE 4910–52–M

Proposed Rules

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 34

RIN 3150-AD35

ASNT Certification of Industrial Radiographers

AGENCY: The Nuclear Regulatory Commission.

SUMMARY: The Nuclear Regulatory Commission proposes to amend its regulations at 10 CFR part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations," to provide license applicants the option to affirm that all of their active radiographers will be certified in radiation safety by the American Society for Nondestructive Testing (ASNT) prior to commencing duties as radiographers, in lieu of current licensing requirements to submit descriptions of planned initial radiation safety training and qualification procedures. The Commission believes that the ASNT "Certification Program for Industrial Radiography Radiation Safety Personnel" provides an acceptable method of ensuring that radiographers are adequately trained in the radiation safety subjects listed in appendix A of 10 CFR part 34. The intent of this proposed rulemaking is to recognize this program and to encourage industrial radiography licensees to participate in the ASNT program. This proposed rule also solicits comments on the costs and benefits of third-party radiation safety certification which will be used by the Commission in its consideration of a planned subsequent rulemaking that would require radiographer certification.

DATE: The public comment period expires February 7, 1990. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, attention: Docketing and Service Branch.

Deliver comments to: 2120 L Street, NW. (Lower Level), Washington, DC, between 7:30 a.m. and 4:15 p.m. Federal Government workdays.

Copies of draft regulatory analysis and comments received may be examined at: the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3740.

SUPPLEMENTARY INFORMATION:

Background

Current NRC sealed source radiography licensing requirements (10 CFR 34.11) specify that an applicant will have an adequate program for training radiographers and will submit to NRC a schedule or description of the program including initial training, periodic retraining, on-the-job training, and the means to be used by the licensee to determine the radiographer's knowledge and understanding of, and ability to comply with, Commission regulations and licensing requirements, and the operating and emergency procedures of the applicant. Section 34.31(a) specifies conditions under which an individual is permitted to act as a radiographer. In addition, appendix A or part 34 outlines the radiation protection training requirements.

The NRC is proposing to permit applicants to affirm, in lieu of submitting descriptions of their initial radiation safety training and radiographer qualification program, that all individuals permitted to work as radiographers will be certified in radiation safety through the Industrial Radiography Radiation Safety Personnel Program of the American Society for Nondestructive Testing (ASNT), Inc. prior to commencing duties as radiographers. Contingent upon an analysis of the costs and benefits of third-party certification and demonstrated success of the ASNT certification program, the NRC is considering the initiation of a subsequent rulemaking which would require third-party certification of all radiographers.

The high activity radioactive sources used in industrial radiography pose serious hazards if radiation safety procedures are not adhered to rigorously. A significant fraction of occupational overexposures and serious radiation injuries reported to the NRC and the States have occurred in industrial radiography operations. The State of Texas determined that 42 percent of all overexposures reported in that State in 1987 were attributable to industrial radiographic operations. The Commission is determined to work with the licensees and the States to make every effort to improve the radiation safety record in industrial radiography. This rulemaking is consistent with and complements other recent NRC actions such as the proposed radiography device safety rule and the previously published quarterly performance inspection requirement (§ 34.11(d)).

Investigation by the NRC and Agreement States have indicated that inadequate training is often a major contributing factor to radiography accidents. Proposals to require third-party certification of radiographers have been advanced by NRC staff, the Ad Hoc Radiography Steering Committee and ASNT. In 1987, the Texas Bureau of Radiation Control implemented a comprehensive testing program for radiographers as a means of improving and verifying training and radiation safety practices in the industry. To date, approximately 2,000 individuals have been tested and issued industrial radiography ID cards by that State.

Preliminary evaluation of the effectiveness of the Texas program is encouraging. There is an indication of a downward trend in overexposures since Texas radiographers began preparing for the examination, but the data are not yet definitive. Inspectors report observing radiographers studying safety training documents and a general improvement in job site performance.

The ASNT's "Certifications Program for Industrial Radiography Radiation Safety Personnel" was approved by its Board of Directors in March of 1989. The program, which would use a written examination developed and validated by the State of Texas, has been reviewed widely, NRC headquarters and Regional staff provided extensive comment on the program. The ASNT program will offer certification for both isotope and x-ray users. Applications for

certification requires documentation of 40 hours of classroom training in radiation safety topics specified by ASNT (including those subjects outlined in appendix A of 10 CFR part 34), documentation of 520 hours of direct experience with radiography sources under the control of an NRC or Agreement State licensee, and proof of successful completion of a practical examination on safety procedures administered by an institution recognized by the ASNT. ASNT recognizes government or private institutions that are licensed by the NRC or an Agreement State for the use of radiography sources.

Upon approval of an application for certification by ASNT, a candidate radiographer would then be eligible to take the State of Texas written examination. The examination would be administered by the ASNT or the Conference of Radiation Control Program Directors (CRCPD). The examination covers radiation protection principles, regulations, basic equipment operation, and radiation safety procedures applicable to industrial radiography. In addition, a candidate must sign an acknowledgement that he/she will abide by the ASNT Rules of Professional Conduct.

Certification is for a period of 5 years, and a candidate for renewal must document continued active permanent employment in radiography for at least 24 out of the last 36 months. In addition, the renewal candidate must document at least 8 hours of annual formal classroom training on radiation safety topics including new safety regulations or requirements. If these renewal criteria are not met, the candidate would be required to repeat the examination process.

ASNT plans to implement an initial trial of its certification program in December of 1989. It is expected that the program will be fully capable of certifying approximately 10,000 radiographers within 2 to 3 years. The NRC staff will monitor the trial program prior to initiating rulemaking which would make third-party certification a requirement.

More detailed information regarding the certification program is available from the American Society for Nondestructive Testing, Inc., 4153 Arlingate Plaza, P.O. Box 28518, Columbus, Ohio 43228-0518.

Description of Proposed Amendment

The proposed amendment to 10 CFR 34.11 would apply to all applicants for NRC industrial radiography licenses. The proposed rule would provide radiography license applicants the option to affirm that all individuals acting as radiographers will be certified in radiation safety through the Industrial Radiography Radiation Safety Personnel program of the American Society for Nondestructive Testing, Inc. prior to commencing duties as radiographers. This would be in lieu of the current requirement for submitting a description of the applicant's initial training and testing program on radiation safety subjects listed in appendix A of 10 CFR part 34. It is not the intent of this rulemaking to waive the training requirements outlined in § 34.11, § 34.31 and appendix A of 10 CFR part 34. This rule also would not change requirements for radiographers' assistants, and descriptions of periodic retraining and training in operating and emergency procedures would continue to be required.

Future Rulemaking

This proposed rule also solicits comments on the costs and benefits of third-party radiation safety certification which will be used by the Commission in its consideration of planned subsequent rulemaking that would require radiographer certification.

Impact

The ASNT has estimated the cost to the industry for certification to be approximately $1000 per radiographer, which includes exam fees and costs, travel, and administrative costs and lodging at the testing site. Certification is for a period of 5 years, and a candidate for renewal must document continued active permanent employment in radiography for at least 24 out of the last 36 months. In addition, the renewal candidate must document at least 8 hours of annual formal classroom training on radiation safety topics including new safety regulations or requirements. If these renewal criteria are not met, the candidate would be required to repeat the examination process. The NRC expects use of the ASNT certification program by the license applicant would not affect licensee training costs because present NRC regulations require training and would continue to do so, and because the ASNT eligibility requirements include documented training. Some small reduction in cost will be associated with the application process because if a radiography license applicant elects to have its radiographers certified, the applicant would not have to submit a detailed description of a planned initial radiation safety training and testing program covering the topics listed in appendix A.

The ASNT estimates that as many as 12,000 radiographers could be involved in certification. The total cost to the industry is estimated to be $6.7 million in 1989 dollars based on a 30-year period beginning in 1989.

The NRC believes that voluntary participation in the ASNT certification program has the potential to significantly improve safety awareness and performance.

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0120.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-3740.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities.

The proposed rule would affect all industrial radiography license applicants. Currently, license applicants are required under 10 CFR part 34.11(b) to provide descriptions of initial training, testing and periodic safety

performance appraisals of all radiographers in their employ. The proposed rule would add a provision that would permit substitution of ASNT certification for the existing requirement to submit detailed descriptions of initial radiation safety training and testing procedures in license applications. Because the cost of ASNT certification per radiographer is estimated at approximately $1000 for a certification period of 5 years and recertification without reexamination is estimated at approximately $70.00 per radiographer, and the potential improvement in safety awareness and performance is considered to be significant, the overall industry benefits are considered to outweigh the economic impact on small industrial radiography licensees. However, the NRC is seeking comments and suggested modifications of the proposed rule because of the widely differing conditions under which small industrial radiography licensees operate.

Any small entity, subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact, should notify the Commission of this in a comment that indicates—

(a) The applicants' size in terms of annual income or revenue, number of employees, and the number of radiographic tests performed annually;

(b) How the proposed regulation would result in a significant economic burden upon the applicant as compared to that on a larger applicant;

(c) How the proposed regulation could be modified to take into account the applicants' differing needs or capabilities;

(d) The benefits that would be gained or the detriments that would be avoided by the applicant if the proposed regulation were modified as suggested by the commenter; and

(e) How the regulation, as modified, would still adequately protect the public health and safety.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 34

Packaging and containers, Penalty, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 34.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 34.22, 34.23, 34.24, 34.25(a), (b), and (d), 34.28, 34.29, 34.31 (a) and (b), 34.32, 34.33(a), (c), and (d), 34.41, 34.42, and 34.43(a), (b) and (c), and 34.44 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 34.11(d), 34.25 (c) and (d), 34.26, 34.27, 34.28(b), 34.29(c), 34.31(c), 34.33 (b) and (e), and 34.43(d) are issued under sec 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 34.11, paragraph(b)(5) is redesignated as paragraph(b)(6) and a new paragraph(b)(5) is added to read as follows:

§ 34.11 Issuance of specific licenses for use of sealed sources in radiography.

* * * * *

(b) * * *

(5) In lieu of describing an initial training program for radiographers in the subjects outlined in Appendix A and required in § 34.31 of this part and the means used to determine the radiographer's knowledge and understanding of these subjects, the applicant affirms that all individuals acting as radiographers will be certified through the Certification Program for Industrial Radiography Radiation Safety Personnel of the American Society for Nondestructive Testing, Inc. prior to commencing duties as radiographers. (This paragraph does not relieve a licensee from compliance with the training requirements of § 34.31(a) of this part.)

* * * * *

Dated at Rockville, Maryland, this 30th day of October, 1989.

For the Nuclear Regulatory Commission.

James M. Taylor,

Acting Executive Director for Operations.

[FR Doc. 89-26443 Filed 11-8-89; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Rebuttal period on public comments filed in advance notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission has granted all interested parties a 30-day period, until December 15, 1989, to review and respond to any factual information filed during the comment period on the Commission's Advance Notice of Proposed Rulemaking for possible amendments to its rule governing informal dispute settlement procedures (16 CFR part 703). The Advance Notice was published on May 16, 1989 (54 FR 21070). On September 19, 1989, the Commission granted a 60-day extension for filing public comments, ending November 15, 1989.

DATES: Written rebuttal comments will be accepted until December 15, 1989.

ADDRESS: Written comments and suggestions should be marked "Rule 703 Review" and sent to the Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326-3115

or

Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326-3135.

SUPPLEMENTARY INFORMATION: In a letter filed on September 8, 1989, the Attorneys General for the States of Minnesota, California, Connecticut, Indiana, Florida, New York, Illinois and Ohio renewed a request originally made on May 26, 1989, that the Commission grant an additional period of not less than 30 days to review and respond to any economic or cost data submitted by the automobile manufacturers or any other interested party during the public comment period on the review of the Commission's Rule Governing Informal Dispute Settlement Procedures, 16 CFR part 703 ("Rule 703"). In an Advance Notice of Proposed Rulemaking ("ANPR") published on May 16, 1989, the Commission had requested written public comment on whether Rule 703 should remain unchanged, or whether it should be amended (54 FR 21070). On July 17, 1989, the Commission denied the

May 26, 1989, request of the Attorneys General for a rebuttal period on the grounds that the request was premature (54 FR 29910).

In denying the previous request, the Commission noted that the process was only at the ANPR level, which was intended to be a more informal, expeditious process, laying out a series of questions which would assist the Commission in determining whether to initiate a proceeding to consider amendments to Rule 703 and, if so, what amendments should be considered.

The Commission, however, has now granted two 60-day extension periods—first, on July 17, 1989, to the State Attorneys General to permit them to collect responsive information from a number of states and file a joint response (54 FR 29910); and then, on September 19, 1989, to the Motor Vehicle Manufacturers Association of the United State, Inc. ("MVMA") and the Automobile Importers of America, Inc. ("AIA") to permit them to complete the process of compiling cost data from their member companies and independent entities, including the Council of Better Business Bureaus, Inc. ("BBB") and the American Automobile Association ("AAA") (54 FR 38529).

The comment period on the ANPR thus has now taken 180 days. Any additional delay which would be produced by a 30-day rebuttal period would likely be offset by the benefits from having the record developed as fully as possible before making any decisions on whether to publish a Notice of Proposed Rulemaking for Rule 703.

For the same reasons, the Commission believes that it would be beneficial to give all parties an opportunity to comment on any factual information which may be provided during the comment period, rather than limiting the rebuttal only to economic or cost data, as the state attorneys general had requested.

Therefore, having considered the request, the complexity of the issues raised by the ANPR, and the desirability of developing the record as fully as possible before making any decisions on whether to publish a Notice of Proposed Rulemaking for Rule 703, the Commission has determined that a 30-day period of time should be granted to all who wish to review and respond to any factual information submitted during the comment period which ends November 15, 1989. Accordingly, the Commission has granted a rebuttal period to submit such responses. The rebuttal period will close on December 15, 1989.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-26424 Filed 11-8-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 392, 393

[FHWA Docket No. MC-89-4]

RIN 2125-AC26

Parts and Accessories Necessary for Safe Operation; Emergency Warning Devices; Stopped Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Termination of rulemaking.

SUMMARY: The FHWA has determined that existing regulations need not be amended regarding the appropriate use of fusees as an alternative or supplement to bidirectional reflective triangles. Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 mandated such a review. Based on available information and public comments, it has been determined that no enhancement of motor carrier or highway safety would be served by revising current regulations. Therefore, the rulemaking is terminated.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Hagan, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1989, the FHWA published in the **Federal Register** (54 FR 5516) an Advance Notice of Proposed Rulemaking (ANPRM) on several issues relating to the appropriate use of emergency warning devices as well as the type allowed, for commercial motor vehicles. First, the FHWA requested public comment on the appropriate use of fusees as an alternative or supplement to bidirectional emergency reflective triangles. That portion of the ANPRM was required by Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Title IX, Subtitle B, of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, 102 Stat. 4181, 4527). This document addresses this issue.

Second, the FHWA requested comments on the elimination of the current exemption contained in 49 CFR 392.22(b)(2)(iii) which allows drivers to forego placing warning devices when the motor vehicle is stopped upon the traveled portion of a highway or the shoulder thereof if the vehicle is within a business or residential area during times when lighting is not required, or where lighting is sufficient to make a vehicle clearly discernible at a distance of 500 feet to persons on the highway. This action was taken in response to a petition for rulemaking change by Police Officer Thomas J. Magnan, Traffic Safety Division, Motor Carrier Safety Assistance Program (MCSAP) Grant Coordinator, Metropolitan Police Department, St. Louis, Missouri.

Third, the FHWA requested comments on all aspects of emergency warning devices including the types allowed and exemptions and/or conditions for use. These last two issues will be addressed in a subsequent rulemaking.

Fusees

Section 9106 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (the Act) requires the Secretary, not later than 60 days after the enactment, to "initiate rulemaking proceedings for the purpose of determining the appropriate use, as emergency warning devices for commercial motor vehicles, of fusees as an alternative or supplement to bidirectional emergency reflective triangles." Section 9106 further requires the Secretary to complete such rulemaking proceeding by October 31, 1989.

The current requirements regarding the use of fusees in the Federal Motor Carrier Safety Regulations (FMCSRs) are in §§ 393.95 and 392.22. Paragraph (f)(1)(i) of § 393.95, Emergency equipment on all power units, states that vehicles equipped with warning devices before January 1, 1974, may use the following until replacements are necessary: "Three liquid burning emergency flares which satisfy the requirements of SAE J597 'Liquid Burning Emergency Flares,' and three fusees and two red flags;" or other devices as specified in paragraphs (f)(1)(ii) through (v). Paragraph (f)(2)(ii), Vehicles equipped with warning devices on and after January 1, 1974, states, "Fusees, liquid-burning emergency flares, and red electric lanterns that conform to paragraph (f)(1) of this section may be used to supplement the

emergency reflective triangles required in paragraph (f)(2)(i) of this section."

Section 393.95(g), Flame producing devices prohibited on certain vehicles, states that, "Liquid-burning emergency flares, fusees, oil lanterns, or any signal produced by a flame shall not be carried on any motor vehicle transporting explosives, Class A or Class B; any cargo tank motor vehicle used for the transportation of flammable liquids or flammable compressed gas whether loaded or empty; or any motor vehicle using compressed gas as a motor fuel."

Section 393.95(j), Requirements for fusees, states that, "Each fusee shall be adequate, reliable, capable of burning at least 15 minutes and shall comply with the specifications of the Bureau of Explosives, Association of American Railroads * * * dated February 1969. Each fusee shall be marked to show that it complies with the specifications of the Bureau of Explosives."

Paragraph (b)(2)(i), special rules—fusees of § 392.22, Emergency signals; stopped vehicles, states, "The driver of a vehicle equipped with liquid burning flares (pot torches) shall first place a fusee at the location specified in paragraph (b)(1)(ii) of this section before he places the liquid-burning flares as specified in paragraph (b)(1) of this section." Paragraph (b)(2)(iii), Business or residential districts, further states, "The placement of warning devices is not required within the business or residential district of a municipality, except during the time lighted lamps are required and when street or highway lighting is insufficient to make a vehicle clearly discernible at a distance of 500 feet to persons on the highway."

Review of the Comments

A total of 13 comments were received. Two comments were duplicate and one commentary did not refer to this issue. Of the remaining 10 commenters, nine recommended that fusees *not* be permitted as an alternative to bidirectional reflective triangles, and that they continue to be permitted as a supplement to other emergency warning devices.

The issue of whether fusees should be permitted as an alternative or supplement to bidirectional triangles, received eleven comments (not counting duplicates).

There was one comment favorable to the use of fusees as an alternative to bidirectional reflective triangles. This commenter pointed out that fusees are superior for alerting other vehicles to impending danger, and that they are superior to all other warning devices regardless of the weather. The commenter further stated that fusees should not be limited to supplemental use with bidirectional reflective triangles. It was this commenter's position that truck drivers are professionals and are presumed to know the proper use of emergency warning devices and that their judgment should dictate the appropriate device.

Six commenters stated that fusees should not be authorized as an alternative to bidirectional reflective triangles, and that they should be permitted but not required as a supplement to such triangles.

One commenter stated that none of the current devices now allowed were satisfactory and should all be replaced with a patented device that requires no assembly.

Two commenters stated that while fusees could be used with other warning devices, these other devices should not be restricted to the current bidirectional reflective triangles, that in the several years since that form of warning device was adopted by the FHWA, the state of the art had advanced far beyond this form of an emergency warning device.

One commenter stated that fusees as warning devices are primitive and inadequate for the use to which the devices are put. This commenter further stated that in an initial review of the standards set forth in 49 CFR 393.22, he has "concluded the standards for emergency devices and their placement are primitive and outdated."

Further, fusees are not, nor can they be universally applicable in the event of an accident. They cannot be used in the presence of spilled fuel, nor can they be carried aboard vehicles transporting certain classes of hazardous materials, e.g., gasoline. There exists also the risk stemming from the fusee's short burning time where the driver or others would be at risk in replacing the burnt-out fusees.

Upon review of the information available through research for the final report prepared for FHWA entitled "Safety Aspects of Using Vehicle Hazard Warning Lights," September 1980, by BioTechnology, Inc., and comments received to Docket No. MC–89–4, 54 FR 5516, the FHWA has determined that no enhancement of motor carrier safety or highway safety would be served through revising the subject regulation. Therefore, the rulemaking addressing this issue is hereby terminated.

In the February 3, 1989, ANPRM, the FHWA also requested comments on all aspects of emergency warning devices, including the types allowed, exemptions, and/or conditions for use. It appears from the comments received that there have been substantial advances in the state-of-the-art in this area since the last rule change. Before any changes are made to the current regulations, further review of such issues as temporary traffic diversion, conspicuity and emergency warning devices is necessary. Consequently any further proposals will be addressed in a separate rulemaking action.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant action under the Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this termination of rulemaking will be minimal.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

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

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Parts 392 and 393

Highway safety, Highways and roads, Motor carriers, Driving of Motor Vehicles, Motor vehicle safety, and Parts and accessories.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor carrier safety.)

Issued on: October 31, 1989.

T.D. Larson,

Administrator.

[FR Doc. 89–26355 Filed 11–8–89; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 90930-9230]

Endangered and Threatened Species: Indus River Dolphin

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

ACTION: Proposed rule.

SUMMARY: Based on a review of the status of the Indus River dolphin (*Platanista minor*), NMFS has determined that this species is endangered and should be added to the U.S. List of Endangered and Threatened Wildlife. NMFS used the best available scientific and commercial data to make this determination. Scientists estimate the population at about 500, and they are found mainly in the lower Indus River in Pakistan.

DATE: Comments on the proposed rule should be received by January 8, 1990.

ADDRESS: Send comments to Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Office of Protected Resources, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (301/427-2333).

SUPPLEMENTARY INFORMATION:

Background

On April 17, 1987, the National Marine Fisheries Service published its intention to review, in addition to the Chinese river dolphin, the status of the Amazon, Ganges, Indus and La Plata River dolphins to determine whether any of these species should be added to the U.S. List of Endangered and Threatened Wildlife, pursuant to section 4 of the Endangered Species Act of 1973. In 1988 the Service completed its review of the Chinese river dolphin, determined that it was endangered, and added it to the U.S. List of Endangered and Threatened Wildlife (54 FR 22905—May 30, 1989). The Indus River dolphin was also identified as a possible candidate for listing by NMFS in a **Federal Register** notice August 31, 1988 (53 FR 33516). NMFS has completed its review of the Indus river dolphin, determined that it is endangered, and is proposing to add it to the U.S. List of Threatened and Endangered Species.

The following status review of the Indus River dolphin was conducted by Robert L. Brownell, Jr., U.S. Fish and Wildlife Service, and William F. Perrin and Douglas P. DeMaster, NMFS.

Status Review

The Indus River dolphin, *Platanista minor*, has also been called the blind river dolphin and Indus susu. In Pakistan, these dolphins are principally called buhlaan or bulhan. *Platanista indi* Blyth, 1859 is a junior synonym of *P. minor* Owen, 1853 (van Bree, 1976). In this review, it will be referred to as Indus River dolphin.

Distribution

a. Present

Today these dolphins are mainly found in Pakistan in the lower Indus River between Sukkur and Guddu barrages (dams). Downstream from the Sukkur Barrage, dolphins are found to the Kotri Barrage, but they are absent or rare below the Kotri Barrage. One recent dolphin was reportedly taken more than 150 km downstream from Kotri (Pelletier and Pelletier (1980, 1986). Above the Sukkur Barrage, no sightings are known higher than the Jinnah Barrage in the northwestern Punjab (Pilleri and Pilleri, 1979). During the 1970's, Roberts (1977) reported sightings in the Chenab River between Panjnad and Trimmu barrages. However, no recent sightings are available for this area.

b. Past

The historical range included the Indus River at least as far upstream as Attock, as well as the Sutlej, Ravi, Chenab, and Jhelum Rivers to the base of the foothills of the Himalayas (Anderson, 1879).

Estimated Numbers

The barrages have divided the population into six totally isolated subpopulations, two in Sind and four in the Punjab (one of which, above Jinnah Barrage, may consist of only 2–3 individuals) (Perrin and Brownell, 1989). Khan and Niazi (1989) reported that only about 500 were counted during a survey in 1986. Most of them (429) were found in the 170-km area between the Guddu and Sukkur barrages that comprises the Indus Dolphin Reserve. Twenty-one dolphins were counted below the Sukkur Barrage and only 62–71 in the thousands of km of habitat above Guddu Barrage in the Punjab. The species is now extinct in other parts of its former range above the Tarbela Dam and in the Chenab and Sutlej Rivers and above the Panjnad Headworks. These subpopulations were exterminated by the late 1970's by illegal hunting and lowering of water levels.

Currently, there are little data on the trends in population size for any of the six subpopulations. The status of each population can best be summarized as follows: (1) Below Kotri Barrage—declining, (2) Kotri-Sukkur population—static?, (3) Sukkur-Guddu population—slowly increasing, (4) Guddu-Taunsa and Panjnad population—probably declining, (5) Chashma-Jinnah population—verge of extinction, and (6) above Jinnah—verge of extinction. At this time, the best approach to estimating how long Indus River dolphins will survive as a species is to assume that species persistence time is similar to that of Chinese River dolphins (i.e., 20–50 years).

Present Legal Status

a. International

The International Union for Conservation of Nature and Natural Resources (IUCN) lists *P. minor* as "endangered" (IUCN Red Data Book, 1976). It is also listed on appendix 1 of the Convention on International Trade of Endangered Species of Wild Flora and Fauna.

b. National

In Sind Province, it has been fully protected since 1972. However, effective protection was not in force until 1974 when the Indus Dolphin Reserve was established by the Government of Sind between the Sukkur and Guddu barrages. The dolphins have also been protected in the Punjab Province since 1973. However, the establishment of one or more reserves and enforcement of the legal ban against hunting are urgently needed. Without this protection, these dolphins will become extinct in the Punjab and the overall distribution in Pakistan will shrink to a very small portion of its original size (Perrin and Brownell, 1989).

Listing Factors

1. The present or threatened destruction, modification, or curtailment of its habitat or range:

The construction of three irrigation barrages have had a devastating effect on the dolphin's habitat and the dolphins themselves. The barrage at Sukkur was completed in 1932, at Kotri in 1955, and at Guddu in 1969. The greatly reduced volume of water, particularly downstream of the Sukkur Barrage, has decreased the dolphins' dry-season range.

2. Overutilization for commercial,

recreational, scientific or educational purposes:

Over-exploitation of these dolphins by local fishermen has been one of the major factors that caused the population to decline. Direct hunting of these dolphins for their meat and oil has been substantial. At least 11 dolphins have been held in captivity in the United States and Switzerland (Reeves and Brownell, 1989).

3. Disease or predation:

Little is known about these factors. However, based on the few dolphins that have been examined, neither appears to be a significant problem.

4. The inadequacy of existing regulatory mechanisms:

As noted above, enforcement of existing bans on hunting is needed to protect this species in the Punjab Province.

5. Other natural or man-made factors:

None are known. Organochlorine residues in one specimen were equal to or less than those found in various species of marine dolphins (Reeves and Brownell, 1989).

Conclusion

We believe that the best available scientific and commercial data indicate that the population of the Indus River dolphin is endangered and should be listed as such on the U.S. list of Endangered and Threatened Species.

References

Anderson, J. 1879. Anatomical and zoological researches: comprising an account of zoological results of the two expeditions to western Yunnan in 1868 and 1875; and a monograph of the two cetacean genera Platanista and Orcella. B. Quaritch, London, Vol. 1 (text), xxv+985 pp.; Vol. 2 (plates), 84 plates.

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Pelletier, C. and F. Pelletier. 1980. Rapport sur l'expenditon Delphinasia (Septembre 1977–Septembre 1978). Ann. Soc. Sci. Nat. Charente-Maritime 6:647–679.

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Perrin, W.F. and R.L. Brownell, Jr. 1989. Report of the Workshop. *In:* W.F. Perrin, R.L. Brownell, Jr., Zhou Kaiya and Liu Jiankang (eds.), pp. 1–22. Biology and Conservation of the River Dolphins. Occasional Papers of the IUCN Species Survival Commission 3.

Pilleri, G. and O. Pilleri. 1979. Precarious situation of the dolphin population (Platanista indi Blyth, 1859) in the Punjab, upstream from the Taunsa Barrage, Indus River. Investigations on Cetacea 10:121–127.

Reeves, R.R. and R.L. Brownell, Jr. 1989. Susus *Platanista gangetica* (Roxburgh, 1801) and *Platanista minor* Owen, 1853. *In:* S.H. Ridgway and R. Harrison (eds.), pp. 69–99. Handbook of Marine Mammals Vol. 4. Academic Press, London.

Roberts, T.J. 1977. The mammals of Pakistan. Ernest Benn Ltd., London and Tonbridge. xxvi + 361 pp.

Recommended Critical Habitat

In the final rule regarding listing of species (50 CFR 424.12[H]), critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction.

Classification

The 1982 Amendments to the ESA (Pub. L. 97–304), in section 4(b)(1)(A), restrict the information which may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in Pacific Legal Foundation v. Andrus, 675 F. 2d 829 (6th cir., 1981), NMFS has categorically excluded all endangered species listing from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413–23; February 6, 1984).

As noted in the Conference report on the 1982 amendments to the ESA, economic considerations have no relevance to determinations regarding the status of species. Therefore, the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, endangered and threatened wildlife, exports, fish, import, marine mammals, reporting and recordkeeping requirements, transportation.

Dated: October 31, 1989.

James E. Douglas, Jr.

Acting Assistant Administrator for Fisheries.

For the reasons described in the preamble, part 222 of title 50 of the Code of Federal Regulations is proposed to be amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation of part 222 continues to read as follows:

Authority: Endangered Species Act of 1973, 16 U.S.C. 1531–1543.

§ 222.23 [Amended]

2. Section 222.23(a) of subpart C is amended by adding the phrase "Indus River dolphin (*Platanista minor*)" immediately after the phrase "Chinese river dolphin (*Lipotes vexillfier*)" in the second sentence.

[FR Doc. 89–26450 Filed 11–8–89; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Federal Regulation of Biotechnology

AGENCY: Administrative Conference of the United States.

ACTION: Notice of Meeting and Proposed Recommendation.

SUMMARY: The Administrative Conference's Committee on Regulation has scheduled a meeting for further consideration of a draft recommendation on federal regulation of biotechnology. Copies of the complete text of the draft and of the supporting report are available to interested persons.

DATE: The committee will meet to discuss the recommendation on November 21, 1989. Any comments should be submitted no later than November 17.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: 202–254–7065. Comments may also be submitted to this address.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Regulation has under consideration a draft recommendation on federal regulation of biotechnology. The proposed recommendation is based in part on a draft report by Professor Sidney A. Shapiro of the University of Kansas School of Law. The draft recommendation is summarized in this notice. Copies of the full text of the draft recommendation and of the draft report are available from the Office of the Chairman of the Administrative Conference, which will respond immediately to any such requests.

The Conference's Committee on Regulation will meet on Tuesday, November 21, 1989, for further consideration of the draft recommendation. The meeting will take place at 12:00 noon, at the library of the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC. At that time, the committee will decide whether to approve a draft recommendation for consideration by the Administrative Conference at its Plenary Session scheduled for December 14 and 15, 1989. Comments should be sent to the address given above not later than November 17.

This notice of a committee meeting is given pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463). Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Summary of the Draft Recommendation

The draft recommendation addresses coordination of the regulation of biotechnology by federal agencies and the procedures used to regulate biotechnology development, testing, and use. The draft calls for a continuation of interagency coordination under the auspices of the Office of Science and Technology Policy, and urges that the President make the work of that Office's Biotechnology Science Coordinating Committee a high priority.

Other suggestions include a survey of biotechnology developments and agency regulation under existing statutes to determine whether current law and regulation provide adequate authority to protect public and private interests. The survey would be conducted by the Office of Science and Technology Policy and the Office of Technology Assessment. The draft suggests that agencies engaged in biotechnology regulation articulate their policies through generic rules and policy statements to the extent possible. Agencies are encouraged to adopt appropriate procedures to allow public participation.

Dated: November 6, 1989.
Jeffrey S. Lubbers,
Research Director.
[FR Doc. 89–26500 Filed 11–8–89; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 3, 1989.

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 provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) 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.

Extension

- Agricultural Marketing Service

Plan for Estimating Daily Livestock Slaughter under Federal Inspection
None
Daily
Businesses or other for-profit; 33,800 responses; 575 hours; not applicable under 3504(h)
James A. Ray, (202) 447–6231

- National Agricultural Statistics Service

Livestock Surveys
None
Weekly; Monthly; Quarterly; Annually

Farms; Businesses or other for-profit; 162,780 responses; 27,810 hours; not applicable under 3504(h)
Larry Gambrell, (202) 447–7737

New Collection

• Office of Personnel Service
USDA Demonstration Project Applicant Supplemental Survey
Demo Form (DF) 001
On occasion
Individuals or households; 24,400 responses; 6,100 hours; not applicable under 3504(h)
Mary Ellen Recchia, (202) 447–8580

• Food and Nutrition Service
Food Distribution Commodity Acceptability Report
FNS–663
Semi-Annually; Annually
State or local governments; 758 responses; 15,898 hours; not applicable under 3504(h)
Dale Wingo, (703) 756–3644

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 89–26438 Filed 11–8–89; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Bassi, Two Peaks, and Four Corners Timber Sales, Pacific Ranger District, Eldorado National Forest

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for the resource management activities, including timber harvesting and road building, on the Bassi, Two Peaks, and Four Corners timber sales, involving a total planning area size of about 17,000 acres on the Pacific Ranger District of the Eldorado National Forest. These three timber sales include portions of the Pyramid-Bassi roadless area. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by December 31, 1989.

ADDRESS: Submit written comments and suggestions concerning the scope of the analysis to David Bakke, District Silviculturist, Pacific Ranger Station, Pollock Pines, California, 95726.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to David Bakke, District Silviculturist, Pacific Ranger Station, Pollock Pines, California, 95726, phone 916–644–2349.

SUPPLEMENTARY INFORMATION: The Eldorado National Forest Land and Resource Management Plan was completed in January 1989. In preparing the EIS, the Forest Service will identify and consider a range of alternatives, including no action. In other alternatives, varying levels of timber harvest, including even- and uneven-age; recreation development; transportation systems; and competing vegetation control, including herbicides, burning, and mechanical treatments will be analyzed.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Defining the scope of the analysis and nature of the decision to be made.
2. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.
3. Defining the proper interdisciplinary team make-up.
4. Determining the effective use of time and money in conducting the analysis.
5. Identifying potential environmental, technical, and social impacts of the EIS and alternatives.
6. Determining potential cooperating agencies.
7. Identifying groups or individuals interested or affected by the decision.

Jerald N. Hutchins, Forest Supervisor, Eldorado National Forest, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by December, 1990. At that time, EPA will publish a notice of availability of the draft EIS in the Federal Register.

The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the Federal Register. It is very important that those interested in the timber sale project participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alert an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS, *Wisconsin Heritages, Inc.*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final document.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by May, 1991. In the final EIS the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the draft EIS, and applicable laws, regulations and policies in making a decision regarding this project. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Dated: November 1, 1989.

Ray Quintanar,

Acting Forest Supervisor, Eldorado National Forest.

[FR Doc. 89–26447 Filed 11–8–89; 8:45 am]

BILLING CODE 3410–11–M

Harvey-Eightmile Timber Sale (FY 90); Deerlodge National Forest, Granite County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest

timber and build roads in the Harvey Creek, Eightmile Creek, Grouse Creek, and Moyie Gulch drainages. The project area is located approximately 20 air miles northwest of Philipsburg, Montana (30 miles southeast of Missoula, Montana). Portions of the proposed actions are located within the Silver King roadless area (#01–424).

DATE: Written comments concerning the scope of the analysis should be received December 26, 1989.

ADDRESSES: Send written comments to Philipsburg District Ranger, Box H, Philipsburg, Montana 59858.

FOR FURTHER INFORMATION: Questions concerning the proposed action and EIS should be directed to Dan Mainwaring, Interdisciplinary Team Leader, Philipsburg Ranger District, phone: (406) 859–3211.

SUPPLEMENTARY INFORMATION: The purpose and goals for the proposed action are to:

—To help satisfy the short-term demands for timber, maintain a continuous supply for timber to the future.

—To produce a distribution of size and age classes of timber stands.

—That more fully realize site potential, are healthier, and are more resistant to disease and insect infestations.

—To maintain overall levels of wildlife habitat, livestock grazing and dispersed recreation.

The Forest Service is seeking information and comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues for the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS. Preparation of the EIS will include the following steps.

1. Identification of potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of issues of minor importance or those that have been covered by previous and relevant environmental analysis.

4. Identification of reasonable alternatives to the proposed action.

5. Identification of the potential environmental effects of the alternatives.

As a result of a preliminary scoping effort the following issues have been tentatively identified for the proposed action:

- What will be the effects of the proposal on wildlife and wildlife habitat in the area?
- What will the impacts on big game hunting opportunity be?
- How will the proposal effect the roadless character of the area?
- What will the relative cost efficiency of the alternatives to be considered be and what will the effects be on the local economy?
- How will the proposal effect water quality, water quantity, and riparian areas?
- What harvest methods will best convert stagnant stands to healthy growing stands, create stands that are more disease and insect free, improve timber stand diversity, and provide commercial timber sales?

The Forest Service invites written comments on the tentative issues and other issues relevant to the proposed action. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this Notice in the Federal Register.

This EIS will tier to the Forest Plan (approved Septemer 23, 1987) which provides the overall guidance (Goals, Objectives, Standards and Guidelines, and Management Area direction) to achieve the desired future condition for the area being analyzed. The potentially affected area includes the following Management Areas (described in the Deerlodge Forest Plan on pages III–10 through III–73): A4, A6, C1, C3, E1, and J2.

The boundary of the area used for analysis starts where Harvey Creek intersects the corner of sections 28, 29, 32, and 33 of T. 10 N., R. 15 W., PMM, and heads in a north easterly direction along Harvey Creek to the junction with the Forest Boundary in section 29, T. 11 N., R. 14 W., PMM, thence south westerly along the administrative boundary between the Deerlodge and Lolo National Forests to approximately the center of section 35, T. 11 N., R. 15 W., PMM, thence south westerly towards the West Fork of Tyler Saddle, and thence along a line running south to the point of beginning. Of the 12,000 acres in the area, approximately 9,000 acres are inside of the roadless area boundary.

Timber Harvest is proposed on lands designated E1 (the goal of this management area is to provide healthy stands of timber and economic levels of timber while maintaining overall levels of wildlife habitat, livestock grazing, and dispersed recreation). Road construction and reconstruction may occur in the other management areas. Roading proposals will depend on which parts of Management Area E1 are identified for harvest. Approximately 800 acres of mature and overmature timber stands will be harvested.

As previously mentioned the proposed actions will impact the Silver King Roadless Area (#01–424). Because of past actions this roadless area now exists in three separate parcels (Parcel A—27,000 acres, Parcel B—13,000 acres, and Parcel C—9,000 acres). The proposed action will occur only in Parcel C. The proposed action has the potential to reduce Parcel C to less than 5,000 acres.

The proposed management activities would be administered by the Philipsburg Ranger District of the Deerlodge National Forest in Granite County, Montana.

The analysis will consider a range of alternatives. One of these will be the "No Action" alternative, in which all harvest and regeneration are deferred. Other alternatives will consider various levels and locations of harvest and regeneration in response to issues and non-timber objectives.

The analysis will evaluate the environmental effects of each alternative. This analysis will be consistent with implementing management direction outlined in the Forest Plan and with the identified issues. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of those mitigation measures will be disclosed.

Agencies and other interested publics are invited to visit with Forest Service officials at any time during the process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process (the next 45 days) and, (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review on April 15, 1990. At that time the EPA will publish a notice of availability of the Draft EIS in the Federal Register. The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to alert reviewers several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the

environmental review of the proposal so that it is meaningful and so that it alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these courts rulings, it is important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. Referencing to specific pages or chapter of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality µRegulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.).

The final EIS is expected to be released June 15, 1990. The Forest Supervisor for the Deerlodge National Forest who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: October 26, 1989.

Ronald K. Hanson,

Land Use Coordinator, Deerlodge National Forest.

[FR Doc. 89-26448 Filed 11-8-89; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the regulations of the U.S. Commission on Civil Rights (Commission), that a meeting of the Georgia Advisory Committee (Committee) to the Commission will convene at 2:00 p.m. and adjourn at 5:00 p.m. on Tuesday, November 28, 1989, at the Hyatt Regency Hotel, 265 Peachtree Street, Atlanta, Georgia 30303. The purpose of the meeting is to release a report entitled, "Bigotry and Violence in Georgia" and to discuss civil rights progress and/or problems in the state and to make future plans for a program project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rose Strong, (404/563-0006) or Bobby D. Doctor, Commission staff at (202/376-8552; TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the regulations of the commission.

Dated at Washington, DC, November 2, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89-26449 Filed 11-8-89; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Presidential Decision: Uranium Section 232 National Security Investigation

AGENCY: Office of Industrial Resource Administration, Bureau of Export Adminstration, Commerce.

ACTION: Announcement of Presidential decision.

SUMMARY: The President has determined that no action is necessary to adjust uranium imports under authority of section 232 of the Trade Expansion Act of 1962, as amended. Included herein is the Executive Summary of the Department's section 232 report to the President.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Deputy Assistant Secretary for Industrial Resource Administration, U.S. Department of Commerce, Washington, DC 20230, (202) 377-4506.

SUPPLEMENTARY INFORMATION: On December 30, 1988, the Secretary of Energy requested the Secretary of Commerce to conduct an investigation of the effect of uranium imports on the national security under authority of section 232 of the Trade Expansion Act of 1962, as amended. The Secretary of Energy's action was required by the provisions of section 170(B) of the Atomic Energy Act of 1954. That section requires the Secretary of Energy to request a section 232 investigation when imports of uranium represent greater than 37.5 percent of domestic requirements for any two consecutive years, as they did in 1986 and 1987. On February 27, 1989, the Department of Commerce announced its initiation of an investigation, and solicited public comments in the Federal Register.

On September 26, 1989, the Secretary of Commerce submitted his investigation report to the President. The investigation determined that available supplies of uranium would be sufficient to meet anticipated requirements during a national security emergency. The Department found, therefore, that uranium is not being imported in such quantities or under such circumstances as to represent a threat to the national security. On October 16, 1989, the President approved the Secretary of Commerce's recommended finding that no Presidential action is necessary to adjust imports of uranium under authority of section 232 of the Trade Expansion Act of 1962, as amended.

The Executive Summary of Commerce's September 1989 section 232 report is reproduced below. The complete Commerce report is available for public review and duplication in the Bureau of Export Administration's Office of Security and Management Support, Room 4886, U.S. Department of Commerce, Washington, DC 20230, (202) 377-2593.

Dennis Kloske,

Under Secretary for Export Administration.

Executive Summary

Background

On December 30, 1988, the Secretary of Energy requested the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962, as amended, to determine the effects of uranium imports on the national security. Under the statute, the President has the authority to "adjust imports" based on recommendations from the Secretary of Commerce.

The Secretary of Energy's request for the investigation was required by section 170(B) (42 U.S.C. 2210b) of the Atomic Energy Act of 1954. This section requires the Secretary of Energy to determine whether: (1) Executed contracts or options for uranium from

foreign sources for use within the United States represent greater than 37.5 percent of actual or projected domestic uranium requirements for any two consecutive year periods, or whether (2) the level of contract or options from foreign sources may threaten to impair the national security. If either determination is made, the Secretary of Energy is required to request the Secretary of Commerce to initiate a section 232 investigation of uranium imports. Since U.S. utilities imported 43.8 percent of their uranium requirements in 1986 and 51.1 percent in 1987, the Secretary of Energy made the above determination and requested this study be initiated.

The Significance of Uranium to National Security

Uranium is essential to the operation of the Navy's nuclear-powered fleet, for nuclear weapon capability and for civilian nuclear energy generation. As the essential fuel for the Navy's nuclear powered vessels, including 150 nuclear submarines and surface ships, a guaranteed supply of uranium is vital for the activities of the Navy. In addition, enriched uranium is a key component of the Nation's nuclear weapons arsenal.

In the essential civilian sector, nuclear power plants currently supply almost 20 percent of U.S. electricity requirements. In this respect, uranium plays a critical role in the energy independence and security of the United States.

Significant Industry Trends

Investment as well as production of uranium has experienced a severe slowdown in recent years. Employment in the industry has declined from a 1979 peak of about 22,000 person-years and now stands at approximately 2,100 person-years.

Prices have fluctuated continously since the beginning of the commercial market in 1964. In recent years, however, prices have experienced a sharp downward trend.

Exports have declined due to lower-cost competition in the world market. At the end of 1987, contracts committed 12.2 million pounds to be exported by 1996 with no commitments beyond that date.

Imports have increased to 51.1 percent of U.S. consumption in 1987 from a very low base as recently as the 1970s. Industry experts expect imports to increase in the near- to mid-term with most of the material coming from Canada and Australia.

Competitiveness

The domestic industry's competitiveness has deteriorated in recent years, due to the easily accessible and richer deposits available elsewhere. Deposits in Canada contain up to 60 percent ore while commercially feasible mines in this country operate with deposits of less than one percent content.

In addition, nuclear power has not been utilized to the extent predicted during the early stages of the industry, resulting in lower demand for uranium to generate electricity. The U.S. market also suffers from inventory overhangs and market prices often lower than U.S. production costs.

Supply Shortfall Analysis

In a national security emergency, defense requirements could be met through stockpiles of finished nuclear materials set aside for military needs. These could be supplemented by natural uranium held at Department of Energy (DOE) enrichment plants for defense needs. Civilian requirements could be sufficiently met through U.S. production, reliable imports, inventories, and tails reprocessing.

Finding

We have determined that available supplies of uranium will be sufficient to meet anticipated requirements during a national security emergency. The Department, therefore, finds that uranium is not being imported in such quantities or under such circumstances as to represent a threat to the national security.

Recommendation

The Department recommends that the President take no action to adjust imports under authority of section 232 of the Trade Expansion Act of 1962, as amended.

[FR Doc. 89-26369 Filed 11-8-89; 8:45 am]
BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 25-89]

Foreign-Trade Zone 136—Brevard County, Florida Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Canaveral Port Authority, grantee of FTZ 136, requesting authority to expand its zone in Brevard County, Florida. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 27, 1989.

FTZ 136 was approved by the Board on March 16, 1987 (Board Order 349, 52 FR 9904, 3/27/87). It currently consists of a 45-acre site within the Port Authority's 908-acre port terminal complex, and a 2-acre temporary site at the nearby Spaceport Florida Industrial Park in Titusville.

The change involves expanding the existing zone to include the entire 908-acre port complex, and adding two publicly-owned industrial park sites within Brevard County: The Titusville-Cocoa Space Center Executive Airport (TICO Airport) industrial park (1,372 acres) in Titusville (including the Spaceport Florida, a new complex for private high technology space operations); and the Melbourne Regional Airport industrial park (1,853 acres) in Melbourne. The application indicates that the expansion will provide facilities needed to accommodate the area's distribution/processing operations, especially for activity related to the commercialization of space. (Items of a commercial nature that comprise a space payload are considered exported at the time of launch.)

No manufacturing approvals are being sought in the application. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 909 SE First Avenue, Miami, Florida 33131; and Colonel Bruce A. Malson, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, Florida 32232.

Comments concerning the proposed expansion are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 18, 1989.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 120 George King Boulevard, Port Canaveral, Florida 32920.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2835, 14th & Pennsylvania Ave., NW, Washington, DC 20230.

Dated: November 2, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-26368 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than November 30, 1989, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

Antidumping Duty Proceeding	Period
Argentina: Barbed Wire and Barbless Fencing Wire (A-357-405)	11/01/88-10/31/89
Argentina: CARBON STEEL WIRE ROD (A-357-007)	11/01/88-10/31/89
Japan: Bicycle Speedometers (A-588-038)	11/01/88-10/31/89
Japan: Titanium Sponge (A-588-020)	11/01/88-10/31/89
The Federal Republic of Germany: Drycleaning Machinery (A-428-037)	11/01/88-10/31/89
The Republic of Singapore: Rectangular Pipes and Tubes (A-559-502)	11/01/88-10/31/89
Suspension Agreements	
Japan: Certain Small Motors (A-588-090)	11/01/88-10/31/89
Singapore: Certain Refrigeration Compressors (C-559-001)	01/01/88-12/31/88
Countervailing Duty Proceeding	
Argentina: Oil Country Tubular Goods (C-357-403)	01/01/88-12/31/88
Argentina: Woolen Garments (C-357-048)	01/01/88-12/31/88
Peru: Deformed Steel Concrete Reinforcing Bars (C-333-502)	01/01/88-12/31/88

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 2030.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by November 30, 1989.

If the Department does not receive by November 30, 1989 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: October 31, 1989.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 89-26367 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-601]

Brass Sheet and Strip From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Commerce.

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

SUMMARY: In response to requests from the petitioner and one respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers three manufacturers and/or exporters of this merchandise for the period August 22, 1986 through December 31, 1987, and one manufacturer and/or exporter for the period January 1, 1988 through December 31, 1988. The review indicates the existence of dumping margins during the period August 22, 1986 through December 31, 1987. No dumping margins were found for the firm reviewed during calendar year 1988.

As a result of this review, the Department has preliminarily determined the dumping margins for these firms to range from zero to 14.18 percent.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Richard Rimlinger, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8312/1130.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1987, the Department of Commerce ("the Department") published in the Federal Register (52 FR 1217) an antidumping duty order on brass sheet and strip from Canada. The review covering the 1986-87 period was requested by the petitioner and covered Arrowhead Metals Ltd., Noranda Metal Industries and Ratcliffs (Canada) Ltd. The review covering calendar year 1988 covered Ratcliff's (Canada) Ltd. and was requested by the petitioner and the respondent. The reviews were requested in accordance with 19 CFR 353.53a (1988). We published notices of initiation on March 2, 1988 (53 FR 6681) and March 8, 1989 (54 FR 9868), respectively. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), we have now conducted these administrative reviews.

Scope of Review

Imports covered by the review are shipments of brass sheet and strip, other than leaded brass and tin brass sheet and strip, from Canada. The chemical composition of the products covered is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C2000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this order. During the review period, such merchandise was classifiable under item numbers 612.3960, 621.3982, 612.3986 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under Harmonized

Tariff Schedule ("HTS") item numbers 7409.21.00 and 7409.29.00. HTS item numbers are provided for convenience and for Customs purposes. The written descriptions remain dispositive.

This review covers three manufacturers/exporters of this merchandise to the United States for the period from August 22, 1986 through December 31, 1987 and one manufacturer/exporter for the period January 1, 1988 through December 31, 1988.

United States Price

In calculating United States price, we used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the c.&f. delivered, duty paid, packed price to unrelated purchasers in the United States. We made adjustments, where applicable, for discounts, U.S. and foreign inland freight, U.S. duty and U.S. brokerage. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act.

Home market price was based on the packed ex-factory or delivered price to unrelated purchasers. We made adjustments, where appropriate, for discounts, rebates, and foreign inland freight. We also made adjustments for differences in credit expenses, commissions and, where appropriate, for differences in merchandise.

We made comparisons of merchandise groups based on form of material (sheet or strip), grade (chemical composition), dimensions, special finishes, temper, and type of packing.

For Noranda, we found that greater than ten percent by quantity of the sales were below cost in two product categories. Therefore, we disregarded the below-cost sales in our calculations for determining foreign market value.

For those categories where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise. These adjustments were based on the costs of materials, direct labor, and directly related factory overhead. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/ Exporter	Period	Margin (percent)
Arrowhead	8/26/86-12/31/87	4.88
Noranda	8/26/86-12/31/87	14.18
Ratcliffs	8/26/86-12/31/87	0.0
	1/1/88-12/31/88	0.0

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs from interested parties may be submitted not later than 14 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the initial round of comments, may be filed not later than 7 days after submission of the initial round of comments. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

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

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins will be required for the above firms. Since the margin for Ratcliffs is zero, the Department shall not require a cash deposit of estimated antidumping duties for this firm. For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipments of this merchandise occurred after December 31, 1988, and which is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of zero percent shall be required. These deposit requirements are effective for all shipments of Canadian brass sheet and strip entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 353.22 of the Department's regulations (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26366 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-017]

Bricks From Mexico; Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has information sufficient to warrant initiation of a changed circumstances administrative review of the countervailing duty order on bricks from Mexico. Because the U.S. brick industry is not interested in having the United States Trade Representative ("USTR") refer this case to the International Trade Commission ("ITC"), and consequently, is not interested in maintaining the countervailing duty order, we intend to revoke the order. We invite interested parties to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: August 24, 1986.

FOR FURTHER INFORMATION CONTACT: Randall Edwards or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On May 8, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 19564) a notice of final affirmative countervailing duty determination and countervailing duty order on bricks from Mexico. At the time the countervailing duty order was issued, Mexico was not entitled to an injury test under U.S. and international law. Countervailing duties were imposed upon this merchandise, which was and remains duty free, without a determination that these entries were injuring the relevant domestic industry.

On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade ("GATT"). Consistent with our earlier positions in Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod from Trinidad and Tobago; Preliminary Results of Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (50 FR 19561; May 9, 1985), the Department has concluded that it lacks the authority under Article VI of the GATT and section 303(a)(2) of the Tariff Act of 1930, as amended ("the Tariff Act"), to levy countervailing duties on duty-free imports from Mexico entered on or after August 24, 1986 absent a determination regarding injury to the domestic industry.

In order to fulfull our international obligations, we have developed procedures whereby the U.S. International Trade Commission ("ITC") will, at the request of the United States Trade Representative ("USTR"), conduct an investigation pursuant to section 332 of the Tariff Act to assess whether (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded, if the Department were to revoke the outstanding countervailing duty order on bricks from Mexico.

On August 1, 1989, we sent a letter to the domestic interested parties on the Department's service list informing them of these procedures. In order to determine whether there was any interest in USTR requesting an investigation pursuant to section 332 on duty-free imports of bricks from Mexico, we requested that the interested domestic parties submit a statement of interest within 30 days of the receipt of our letter. We stated that if we received a statement of interest, we would urge USTR to request that the ITC conduct an investigation pursuant to section 332. The original petitioners in this case requested and received an extension of 30 days to further consider such an undertaking. On September 29, 1989, the petitioners submitted a letter to the Department stating that they were not interested in an injury investigation of duty-free bricks from Mexico.

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after this date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments bricks from Mexico, including unglazed solid bricks and unglazed hollow bricks. Through 1988, such merchandise was classifiable under item numbers 532.1120 and 532.1140 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 6904.10.00. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Initiation, Preliminary Results of Review and Intent To Revoke

We have determined that changed circumstances exist that warrant the initiation of a changed circumstances review. These changed circumstances include: (1) The Government of Mexico's accession to the GATT; (2) our international obligations requiring us not to levy countervailing duties on duty-free imports from GATT-member countries in the absence of an affirmative injury determination; and (3) the domestic industry's lack of interest in having USTR refer this case to the ITC to conduct a section 332 investigation and consequently, its lack of interest in maintaining the countervailing duty order on bricks from Mexico. Under these circumstances, we conclude that expedited action is warranted and are combining the notices of initiation and preliminary results of our changed circumstances administrative review.

Thus, we preliminarily determine that there is a reasonable basis to believe that the requirements for revocation based on changed circumstances are met. Accordingly, we intend to revoke the countervailing duty order on bricks from Mexico effective August 24, 1986. The current requirements for the cash deposit of estimated countervailing duties will remain in effect until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and intent to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday following. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This initiation of review, administrative review, intent to revoke and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and § 355.22 (h)(1) and (h)(4) and 355.25 (d)(1), (d)(2), and (d)(3) of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22 and 355.25).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26364 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-012]

Carbon Black From Mexico; Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review and Intent to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has information sufficient to warrant initiation of a changed circumstances administrative review of the countervailing duty order on carbon black from Mexico. Because the U.S. carbon black industry is not interested in having the United States Trade Representative (USTR) refer this case to the International Trade Commission (ITC) to conduct a section 332 investigation and, consequently, is not interested in maintaining the countervailing duty order, we intend to revoke the order. We invite interested parties to comment on these preliminary results and intent to revoke.

EFFECTIVE DATE: August 24, 1986.

FOR FURTHER INFORMATION CONTACT: David Layton or Paul McGarr, Office of

Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION: On June 27, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 29564) a notice of final affirmative countervailing duty determination and countervailing duty order on carbon black from Mexico. At the time the countervailing duty order was issued, Mexico was not entitled to an injury test under U.S. and international law. Countervailing duties were imposed upon this merchandise, which was and remains duty free, without a determination that these entries were injuring the relevant domestic industry.

On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade ("GATT"). Consistent with our earlier positions in Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod from Trinidad and Tobago; Preliminary Results of Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (50 FR 19561; May 9, 1985), the Department has concluded that it lacks the authority under Article VI of the GATT and section 303(a)(2) of the Tariff Act of 1930, as amended ("the Tariff Act"), to levy countervailing duties on duty-free imports from Mexico entered on or after August 24, 1986 absent a determination regarding injury to the domestic industry.

In order to fulfill our international obligations, we have developed procedures whereby the U.S. International Trade Commission ("ITC") will, at the request of the United States Trade Representative ("USTR"), conduct an investigation pursuant to section 332 of the Tariff Act to assess whether (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded, if the Department were to revoke the outstanding countervailing duty order on carbon black from Mexico.

On August 1, 1989, we sent letters to all domestic interested parties on the Department's service list informing them of these procedures. In order to determine whether there was any interest in USTR requesting an investigation pursuant to section 332 on duty-free imports of carbon black from Mexico, we requested that interested parties submit a statement of interest within 30 days of the date of receipt of our letter. We stated that if we received a statement of interest, we would urge USTR to request that the ITC conduct an investigation pursuant to section 332. We further stated that, in the absence of a statement of interest, we would initiate procedures to revoke the countervailing duty order on carbon black from Mexico. We have no response.

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after this date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Mexican carbon black. Through 1988, such merchandise was classifiable under item number 473.0400 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 2803.00.0010. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Initiation, Preliminary Results of Review and Intent To Revoke

We have determined that changed circumstances exist sufficient to warrant initiation of a changed circumstances review. These changed circumstances include: (1) The Government of Mexico's accession to the GATT; (2) our international obligations requiring us not to levy countervailing duties on duty-free imports from GATT-member countries in the absence of an affirmative injury determination; and (3) the domestic industry's lack of interest in having USTR refer this case to the ITC to conduct a section 332 investigation and, consequently, its lack of interest in maintaining the countervailing duty order on carbon black from Mexico. Under these circumstances, we conclude that expedited action is warranted and are combining the notices of initiation and preliminary results of our changed circumstances administrative review.

Thus, we preliminarily determine that there is a reasonable basis to believe that the requirements for revocation based on changed circumstances are met. Accordingly, we intend to revoke the countervailing duty order on carbon black from Mexico effective August 24, 1986. The current requirements for the cash deposit of estimated countervailing duties will remain in effect until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and intent to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday following. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This initiation of review, administrative review, intent to revoke and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b) and (c)) and §§ 355.22 (h)(1) and (h)(4) and 355.25 (d)(1), (d)(2) and (d)(3) of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22 and 355.25).

Dated: November 1, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89–26365 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Tuesday, December 12 and Wednesday, December 13, 1989, from 9:00 a.m. to 5:00 p.m. This is the fourth meeting of the Advisory Board which was established by the Computer Security Act of 1987 (Public Law 100–235) to advise the Secretary of

Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. A closed session of the meeting will be held to discuss NIST outyear computer security budget matters. The closed session is scheduled to be held, Tuesday, December 12, 1989, from 9:00 a.m. to 5:00 p.m. All other sessions will be open to the public.

DATES: The meeting will be held on December 12 and 13, 1989, from 9:00 to 5:00 p.m. A closed session will be on Tuesday, December 12, 1989, from 9:00 a.m. to 5:00 p.m.

ADDRESS: The meeting will take place at the National Institute of Standards and Technology, Gaithersburg, Maryland. Please contact the individual in the "for further information" section to obtain specific building and conference room assignment.

Agenda

1. Welcome
2. Review of NIST's Computer Security Budget and Revised Program Plan
3. Review of Board's Progress and Proposed Work Plan
4. Subcommittee Reports
5. Discussion of Federal Government Computer Security Issues
6. Public Participation and Pending Board Matters

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer Systems Security and Privacy Advisory Board, National Computer Systems Laboratory, Building 225, Room B–154, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899. It would be appreciated if fifteen copies of written material could be submitted for distribution to the Board by December 5, 1989.

Approximately fifteen seats will be available for the public, including three seats reserved for media. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn NcNulty, Associate Director for Computer Security and Advisory Board Secretary, National Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, Room B–154, Gaithersburg, Maryland 20899, telephone: (301) 975–3240

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 15, 1989, that the portion of this meeting which involves examination of out-year computer security budgets may be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by section 5(c) of the Government in Sunshine Act, Public Law 94–409. Those portions of the meeting, which involve discussion of future budget requests, may be closed to the public in accordance with section 552(b)(9)(B) of title 5, United States Code, since those portions of the meeting are likely to divulge matters that may significantly frustrate implemenation of proposed agency action. All other portions of the meeting will be open to the public.

Dated: November 3, 1989.

Raymond G. Kammer,

Acting Director.

[FR Doc. 89–26489 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Endangered Species; Issuance of Permit; Southwest Fisheries Science Center (P77#36)

On September 20, 1989, notice was published in the **Federal Register** (54 FR 38718) that an application had been filed by the Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, CA 92038, for a permit to take olive ridley turtles (*Lepidochelys olivacea*) for scientific research.

Notice is herby given that on October 30, 1989, as authorized by the provisions of the Endangered Species Act of 1973, the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220–222 of Title 50 CFR, of the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Room 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: October 30, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89–26451 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent 4,315,927 (Serial Number 6–176,234), "Dietary Supplementation with Essential Metal Picolinates," to Nutrition 21, having a place of business in San Diego, CA, for its use as a supplemental to animal diets. The invention is a composition for supplementing essential metals in mammalian diets. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of such license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

A copy of the instant patent may be purchased from the Patent and Trademark Office by telephoning (703) 557–3428 or by writing to the Commissioner of Patents and Trademarks, P.O. Box No. 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the comtemplated licenses must be submitted to Neil L. Mark, Office of Federal Patent

Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 89-26452 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Group II is being increased for special carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 50071, published on December 13, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 8, 1988, as amended, from the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes restraints limits for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 6, 1989, you are directed to amend further the December 8, 1988 directive to increase the current limit for Group II, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and India:

Category—Group II	Adjusted 12-mon. limit [1]
200, 201, 220-229, 237, 239, 300/301, 317, 326, 330-334, 345, 349-352, 359-362, 369-O [2], 369-S [3], 600-607, 611-635, 638-652, 659, 655pt.[4], 666-670 and 831-859, as a group.	110,117,030 square meters equivalent.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369-O, all HTS numbers except 6307.10.2005 in Category 369-S; 6302.60.0010, 6302.91.0005 and 6302.91.0045 in Category 369-D; and rugs exempt from the bilateral agreement in HTS numbers 5702.10.9020, 5702.49.1010 and 5702.99.1010.

[3] In Category 369-S, only HTS number 6307.10.2005.

[4] In Category 655pt., all HTS numbers except rugs exempt from the bilateral agreement in HTS numbers 5702.10.9030, 5702.42.2010, 5702.92.0010 and 5703.20.1000.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26414 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Mexico

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United Mexican States requested an increase in the current Designated Consultation Level for Category 443. The United States Government has agreed to increase the limit for 1989 only.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 54 FR 52461, published on December 28, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1988 by the Chairman, Committee for the Implementation of Textile

Agreements. That directive concerns, among other things, imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 7, 1989, the directive of December 22, 1988 is amended further to increase to 96,000 numbers [1] the current limit for wool textile products in Category 443.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26412 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of an Import Limit for Certain Cotton, Wool and Man-Made Fiber Sweaters Assembled in the Commonwealth of the Northern Mariana Islands (CNMI) From Imported Parts

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit for the new agreement year.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On November 25, 1988, a notice was published in the **Federal Register** (53 FR 47744) announcing that cotton, wool and man-made fiber sweaters in Categories 345, 445, 446, 645 and 646, determined by the U.S. Customs Service to be products of foreign countries or foreign territories and exported from the Commonwealth of the Northern Mariana Islands (CNMI), and certified to have been assembled in the CNMI, may be entered into the United States for consumption, or withdrawn from warehouse for consumption, in an amount not to exceed 87,540 dozen. This limited exception was to be effective for sweaters exported from the CNMI during the period November 1, 1988 through October 31, 1989.

The purpose of this notice is to advise the public that this exception is being continued for goods exported during the period November 1, 1989 through October 31, 1990 at a level of 87,540 dozen, with a wool sublimit of 13,131 dozen, in accordance with the terms of the administrative arrangement between the Governments of the United States and the Commonwealth of the Northern Mariana Islands.

A certification will continue to be required and will be issued by the authorities in the CNMI prior to exportation as verification of assembly in the CNMI. A facsimile of the certification stamp was published in the **Federal Register** on August 12, 1988 (53 FR 30456).

For those sweaters properly certified, no export visa or license will be required from the country of origin of the merchandise, and imports entered under this procedure will not be charged to limits established for exports from the country of origin. Exports of sweaters in Categories 345, 445, 446, 645 and 646, which are not accompanied by a certification and those in excess of 87,540 dozen (13,131 dozen for the wool sublimit), will require the appropriate visa or export license from the country of origin and will be subject to any other applicable restriction.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC.

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, effective on November 13, 1989, you are directed to permit entry or withdrawal from warehouse for consumption in the United States in an amount not to exceed 87,540 dozen cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646, with a wool sublimit for Categories 445 and 446 not to exceed 13,131 dozen, the product of any foreign country or foreign territory, as determined under Customs Regulation Part 12, Section 12.130 and which have been certified as assembled in the Commonwealth of the Northern Mariana Islands (CNMI) and exported to the United States during the twelve-month period beginning on November 1, 1989 and extending through October 31, 1990. You are directed not to require any otherwise applicable export visa or license and not to charge against any otherwise applicable import restriction sweaters subject to this provision. A certification will be issued by the authorities in the CNMI prior to exportation as verification of assembly in the CNMI. A facsimile of the certification stamp has been provided.

You are directed to require the appropriate visa or export license from the country of origin and charge any shipments of cotton, wool and man-made fiber textile products in Categories 345, 445, 446, 645 and 646 to the country of origin if (a) the 87,540 dozen limit or the 13,131 dozen wool sublimit have been filled, or (b) the products are not accompanied by certification, or (c) the products are not assembled in the Commonwealth of the Northern Mariana Islands.

Imports charged to the category limit for the period November 1, 1988 through October 31, 1989 shall be charged against the level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26415 Filed 11-8-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Socialist Republic of Romania

November 3, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Socialist Republic of Romania agreed to convert the designated consultation level for Category 315 to a specific limit at an increased level for 1989.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49344, published on December 7, 1988.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 3, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, DC.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988, as amended, by the Chairman, Committee for the Implementation of Textiles Agreements. That directive concerns imports of certain cotton, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 13, 1989, the directive of December 2, 1988 is being amended further to increase to 2,007,283 square meters [1] the current limit for cotton textile products in Category 315.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26413 Filed 11–8–89; 8:45 am]

BILLING CODE 3510–DR–M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1988.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90–54–000, et al.]

People's Electric Cooperative, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 3, 1989.

Take notice that the following filings have been made with the Commission:

1. People's Electric Cooperative

[Docket No. ER90–54–000]

Take notice that People's Electric Cooperative, on November 1, 1989, tendered for filing initial rate schedules for transmission and wholesale energy sales, designated Rate Schedule Nos. 1 and 2, pursuant to Transmission Service Agreements between People's Electric Cooperative and two of its customers, the Chickasaw Tribal Utility Authority (CTUA) and the Byng Public Works Authority (BPWA). These agreements provide for the initiation of transmission and wholesale power and energy service to these customers.

Copies of the filing were served upon Chickasaw Tribal Utility Authority, Ada, Oklahoma, Byng Public Works Authority, Ada, Oklahoma, and the Oklahoma Corporation Commission.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Central Louisiana Electric Company, Inc.

[Docket No. ER90–39–000]

Take notice that on October 30, 1989, Central Louisiana Electric Company, Inc. (CLECO) filed proposed revisions to its FERC Rates for transmission service provided to the following entities:

Entity	FERC rate schedule No.
Cajun Electric Power Cooperative	21
City of Lafayette, Louisiana	33
Lafayette Public Power Authority	51
Louisiana Energy and Power Authority	53
Louisiana Energy and Power Authority	55

CLECO states that the revised rates would increase revenues by $6,505.453 on an annual basis. The proposed rates are filed to recover increased costs including operating expenses and capital costs associated with increased investments. The revised rate schedule is proposed to become effective on January 1, 1990.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Bangor Hydro-Electric Company; Public Service Company of New Hampshire

[Docket No. ER–90–21–000]

Take notice that Bangor Hydro-Electric Company ("Bangor") and Public Service Company of New Hampshire (PSNH) on October 31, 1989 tendered for filing as an Initial Rate Schedule, an Electric Generating Capability Sales Agreement. The Agreement provides for the sale by Bangor to PSNH of 5,000 KW of electric generating capability during November 1, 1989 through April 30, 1990 and the total output associated therewith.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. ER90–53–000]

Take notice that Pennsylvania Power & Light Company ("PP&L") on November 1, 1989, tendered for filing, as an initial rate schedule, an executed agreement dated as of November 1, 1989, between PP&L and Public Service Company of New Hampshire ("PSNH"). The proposed rate schedule provides for the sale of short-term electric capability and energy from PP&L's Martins Creek Units 3 and 4 to PSNH.

The rate schedule provides for a maximum reservation charge of $808 per megawatt week and a delivery charge of PP&L's actual cost of producing the energy plus a maximum charge of $17/Mwh reflecting foregone interchange savings.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and § 35.3 of the Commission's Regulations to that the proposed rate schedule can be made effective as of November 1, 1989, in accordance with the planned commencement of service.

PP&L states that a copy of its filing was served on PSNH, the Pennsylvania Publfc Utility Commission, and the New Hampshire Public Utility Commission.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Delmarva Power & Light Company

[Docket No. ER90–51–000]

Take notice that Delmarva Power & Light Company ("Delmarva") on November 1, 1989, tendered for filing proposed Supplement No. 3 to Supplement No. 3 to its FERC Rate

Schedule No. 63. This Supplement, filed at the request of the Town of Berlin, Maryland ("Berlin") increases the maximum level of parallel generation under the provisions of the Parallel Operations Service Agreement between Delmarva and Berlin from 3600 kW to 4700 kW. Copies of the filing were served upon Berlin and the Maryland Public Service Commission.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Montaup Electric Company

[Docket No. ER90-46-000]

Take notice that on October 31, 1989, Montaup Electric Company ("Montaup" or "the Company") tendered for filing rate schedule revisions incorporating the 1990 forecast billing rate for its purchased capacity adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island and contract demand service to the three non-affiliated customers: The town of Middleborough in Massachusetts and the Pascoag Fire District and the Newport Electric Corporation in Rhode Island. The new forecast billing rate is $10.05529/kw-Mo. Montaup requests that the new rate become effective January 1, 1990 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorneys General of Massachusetts and Rhode Island, the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Yankee Atomic Electric Company

[Docket No. ER90-47-000]

Take notice that on October 31, 1989, Yankee Atomic Electric Company (Yankee) tendered for filing, pursuant to section 205 of the Federal Power Act and § 35.13 of the Commission's regulations, an amendment to the Power Contracts under which Yankee sells electricity for resale to ten New England utilities. Yankee states that the rate change proposed would result in a decrease in Yankee's 1990 revenue requirement of approximately $8.3 million.

Yankee states that copies of its filing have been provided to its customers and to state regulatory authorities in Connecticut, Vermont, New Hampshire, Massachusetts, Maine, and Rhode Island.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER89-635-000]

Take notice that Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) on October 12, 1989, tendered for filing rate schedule supplements effecting the refund of charges for wholesale service attributable to Northern States Power Company (Minnesota)'s current expensing of spare repair parts rather than capitalizing or inventorying the parts. The filing substitutes new proposed rate schedules for the proposed rate schedules filed in this docket on September 1, 1989. The substituted proposed rate schedules effect larger refunds than the previous rate schedules.

Under the substituted proposed schedules, the amount of Northern States Power Company (Minnesota)'s refund to its subsidiary, Northern States Power Company (Wisconsin) is $3,723,548 and to its 19 non-affiliated wholesale customers is $716,804. Of the $3,723,548 refunded to the subsidiary, $528,402 in turn is refunded by the subsidiary to its 15 non-affiliated wholesale customers. The requested effective date for the filed supplements is November 30, 1989.

The filing has been served upon the non-affiliated customers receiving the credit and on the Minnesota Public Utilities Commission, North Dakota Public Service Commission, South Dakota Public Utilities Commission, and the Public Service Commission of Wisconsin.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Gulf Power Company

[Docket No. ER90-48-000]

Take notice that on October 31, 1989, Gulf Power Company (Gulf) tendered for filing Gulf's 1990 Informational Filing regarding the Interconnection Agreement and Service Agreement between Gulf and Bay Resources Management, Inc.

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Turlock Irrigation District v. Pacific Gas and Electric Company

[Docket No. EL90-2-000]

Take notice that on November 2, 1989, pursuant to sections 205 and 206 of the Federal Power Act, 16 U.S.C. 824d and 824e, and Rules 206, 209 and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, .209 and .212, Turlock Irrigation District (Turlock) tendered for filing a Complaint and Motion for Issuance of an Order to Show Cause against Pacific Gas and Electric Company (PG&E).

In its Complaint, Turlock alleges that on October 19, 1989, PG&E made an unexpected demand on Turlock for payment of $3,389,102.00 as a "true-up" rate for service rendered directly to the City and County of San Francisco (San Francisco) and indirectly to Turlock under a series of agreements among PG&E, San Francisco, Turlock and Modesto Irrigation District (Modesto). Turlock represents that PG&E has not filed a rate with the Commission under which these charges can properly be collected. Turlock further alleges that PG&E has improperly attempted to use the dispute resolution and arbitration procedures of the Interconnection Agreement between PG&E and Turlock (PG&E's FERC Rate Schedule No. 115) to resolve this claim.

Turlock requests that the Commission issue an order finding that: (i) The demand for payment made by PG&E is an invalid bill not based upon any rate approved by the Commission and in violation of the Federal Power Act; (ii) PG&E's demand for payment is outside of the scope of the Turlock-PG&E Interconnection Agreement and should not be subject to the dispute resolution and arbitration provisions of the Interconnection Agreement; and (iii) the Commission has exclusive jurisdiction over this matter. Turlock further requests the Commission to issue an Order to Show Cause requiring PG&E (i) to show why it should not be required to file for approval of the increased rates sought in its demand to Turlock and prove the justness and reasonableness of such rate; and (ii) to withdraw immediately its demand for payment as well as its invocation of the dispute resolution provisions of the PG&E-Turlock Interconnection Agreement.

Comment date: December 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Northern Indiana Public Service Company

[Docket No. ER90-43-000]

Take notice that on October 30, 1989, Northern Indiana Public Service Company (NIPSCO) tendered for filing Eighth Revised Sheet No. 3 to its FERC Electric Service Tariff—Fourth Revised Volume No. 1 which has been revised to include additional delivery points for Wabash Valley Power Association at Kankakee Valley Rural Electric Membership Corporation and Kosciusko County Rural Electric Membership Corporation. Northern Indiana Public Service Company also tendered for filing the following:

Exhibit A, Seventh Supplemental Agreement, dated August 15, 1989, to the Interconnection Agreement between Northern Indiana Public Service Company and the Wabash Valley Power Association, Inc., dated April 16, 1984, covering the establishment of a new delivery point located in Jackson Township, Porter County, Indiana, to be known as the West Toll 69KV delivery point and the termination of two existing delivery points known as the Kankakee Valley REMC Toll delivery point and the Washington Township delivery point.

Exhibit A, Eighth Supplemental Agreement, dated September 26, 1989, to the Interconnection Agreement between Northern Indiana Public Service Company and the Wabash Valley Power Association, Inc., dated April 16, 1984, covering the establishment of a new delivery point located in Plain Township, Kosciusko County, Indiana, to be known as the Airport 69KV delivery point the the termination of an existing delivery point known as the Kosciusko County REMC No. 2 North delivery point.

Copies of this filing were served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff—Fourth Revised Volume No. 1 and the Indiana Utility Regulatory Commission.

NIPSCO requests effective date of October 10, 1989 for Exhibit A, Seventh Supplemental Agreement and, March 1, 1990 for Exhibit A, Eighth Supplemental Agreement and, therefore requests waiver of the Commission's notice requirements.

Comment date: November 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Modesto Irrigation District v. Pacific Gas and Electric

[Docket No. EL90-3-000]

Take notice that on November 2, 1989, pursuant to sections 205, 206 and 306 of the Federal Power Act, 16 U.S.C. 824d, 824e, and 825e, and pursuant to Rules 206, 209, and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, 385.209 and 385.212, Modesto Irrigation District (Modesto) tendered for filing a complaint against Pacific Gas and Electric Company (PG&E).

In its complaint, Modesto alleges that on October 19, 1989, PG&E made a formal demand on Modesto for payment of approximately $10.7 million as a "true-up" rate for service rendered to Modesto under a series of agreements among PG&E, Modesto, Turlock Irrigation District and the City and County of San Francisco. Modesto represents that PG&E has not filed a rate with the Commission under which these charges can properly be collected. Modesto further alleges that PG&E has improperly attempted to use the dispute resolution and arbitration procedures of the Interconnection Agreement between PG&E and Modesto (PG&E's FERC Rate Schedule No. 116) to resolve this claim.

Modesto requests that the Commission (i) issue an order summarily requiring PG&E to show cause why it is not required to file with the Commission and justify its proposed surcharge and (ii) enjoin PG&E from invoking the arbitration provisions of the Modesto-PG&E Interconnection Agreement. Alternatively, if the Commission does not summarily order PG&E to show cause, Modesto requests that the Commission issue an order initiating an evidentiary proceeding under section 206 of the Federal Power Act investigating the justness and reasonableness of the surcharge sought by PG&E. Modesto also requests that the Commission grant such other relief as it may deem just and appropriate.

Comment date: December 1, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26427 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST89-4638-000 through ST89-4872-000]

Oasis Pipe Line Co.; Self-Implementing Transactions

November 3, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's Regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before November 28, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

A "G" indicates transportaton by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines—pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's Regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines—pursuant to § 284.303 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

Please note, the petition for rate approval is notice out of sequence. This filing was originally submitted to the Commission in August, 1989, and received a docket number at that time. However, the filing fee was not paid until October, 1989. This petition is noticed at this time to give interested parties the appropriate 150-day comment period.

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4638	Oasis Pipe Line Co	Transwestern Pipeline Co	09-01-89	C		
ST89-4639	Oasis Pipe Line Co	El Paso Natural Gas Co	09-01-89	C		
ST89-4640	Oasis Pipe Line Co	El Paso Natural Gas Co	09-01-89	C		
ST89-4641	Houston Pipe Line Co	Willow Tex Pipeline Co	09-01-89	C		
ST89-4642	Houston Pipe Line Co	Enron Industrial Natural Gas Co	09-01-89	C		
ST89-4643	Houston Piep Line Co	Transwestern Pipeline Co	09-01-89	C		
ST89-4644	Panhandle Gas Co	Transwestern Pipeline Co	09-01-89	D		
ST89-4645	Natural Gas Pipeline Co. of America	Pennzoil Gas Marketing Corp	09-01-89	G-S		
ST89-4646	Tennessee Gas Pipeline Co	City of Senatobia	09-01-89	B		
ST89-4647	Williams Natural Gas Co	Williams Gas Marketing Co	09-01-89	G-S		
ST89-4648	Williams Natural Gas Co	NGP Pipeline Co	09-01-89	B		
ST89-4649	Louisiana Resources Co	Southern Natural Gas Co	09-01-89	C	01-29-90	32.32
ST89-4650	Louisiana Resources Co	Louisiana Gas Marketing Co, et al	09-01-89	C	01-29-90	32.32
ST89-4651	Louisiana Resources Co		09-01-89	C	01-29-90	32.32
ST89-4652	ANR Pipeline Co	Consumers Power Co	09-01-89	B		
ST89-4653	ANR Pipeline Co	Coastal States Gas Transmission Co	09-01-89	B		
ST89-4654	ANR Pipeline Co	Consolidated Fuel Corp	09-01-89	G-S		
ST89-4655	ANR Pipeline Co	Brock Oil & Gas Corp	09-01-89	G-S		
ST89-4656	ANR Pipeline Co	United Cities Gas Co	09-01-89	B		
ST89-4657	Transok, Inc	Phillips Gas Pipeline Co	09-01-89	C	01-29-90	32.50
ST89-4658	Natural Gas Pipeline Co of America	BP Gas Inc	09-05-89	G-S		
ST89-4659	Natural Gas Pipeline Co of America	Kimball Resources, Inc	09-05-89	G-S		
ST89-4660	Panhandle Eastern Pipe Line Co	Teepak, Inc	09-05-89	G-S		
ST89-4661	Panhandle Eastern Pipe Line Co	Anadarko Trading Co	09-05-89	G-S		
ST89-4662	Panhandle Eastern Pipe Line Co	Anadarko Trading Co	09-05-89	G-S		
ST89-4663	Dow Pipeline Co		09-05-89	C	02-02-90	07.88
ST89-4664	United Texas Transmission Co	Longhorn Pipeline Co	09-05-89	C		
ST89-4665	Panhandle Eastern Pipe Line Co	Anadarko Trading Co	09-05-89	G-S		
ST89-4666	Panhandle Eastern Pipe Line Co	Citizens Gas Fuel Co	09-05-89	B		
ST89-4667	Panhandle Eastern Pipe Line Co	Home Petroleum Corp	09-05-89	G-S		
ST89-4668	K N Energy, Inc	AEC Gas Co	09-05-89	B		
ST89-4669	Natural Gas Pipeline Co. of America	Coastal Gas Marketing Co	09-05-89	G-S		
ST89-4670	Panhandle Eastern Pipe Line Co	Eli Lilly and Co	09-05-89	G-S		
ST89-4671	Panhandle Eastern Pipe Line Co	Golden Gas Energies, Inc	09-05-89	B		
ST89-4672	Trunkline Gas Co	Panhandle Trading Co	09-05-89	G-S		
ST89-4673	Trunkline Gas Co	PSI, Inc	09-05-89	G-S		
ST89-4674	Trunkline Gas Co	Amoco Production Co	09-05-89	G-S		
ST89-4675	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	09-05-89	B		
ST89-4676	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	09-05-89	B		
ST89-4677	Tennessee Gas Pipeline Co	Baltimore Gas and Electric Co	09-05-89	B		
ST89-4678	Pacific Gas Transmission Co	Intermountain Gas Co	09-05-89	B		
ST89-4679	Pacific Gas Transmission Co	Washington Water Power Co	09-05-89	B		
ST89-4680	Pacific Gas Transmission Co	NGC Intrastate Pipeline Co	09-05-89	B		
ST89-4681	El Paso Natural Gas Co	Southwest Gas Corp	09-06-89	B		
ST89-4682	Panhandle Eastern Pipe Line Co	Amgas, Inc	09-05-89	G-S		
ST89-4683	Texas Gas Transmission Corp	Commonwealth Gas Co	09-06-89	G-S		
ST89-4684	Texas Gas Transmission Corp	Georgia-Pacific Corp	09-06-89	B		
ST89-4685	Texas Gas Transmission Corp	Entrade Corp	09-06-89	G-S		
ST89-4686	Texas Gas Transmission Corp	Sun Operating Limited Partnership	09-06-89	G-S		
ST89-4687	Texas Gas Transmission Corp	Stand Energy Corp	09-06-89	G-S		
ST89-4688	Texas Gas Transmission Corp	CNG Trading Co	09-06-89	G-S		
ST89-4689	Texas Gas Transmission Corp	Brooklyn Interstate Natural Gas Corp	09-06-89	G-S		
ST89-4690	Natural Gas Pipeline Co. of America	Texaco Gas Marketing, Inc	09-06-89	G-S		
ST89-4691	Natural Gas Pipeline Co. of America	Palo Duro Pipeline Co., Inc	09-07-89	B		
ST89-4692	Natural Gas Pipeline Co. of America	Unicorp Energy, Inc	09-06-89	G-S		
ST89-4693	Northern Natural Gas Co	Entrade Corp	09-07-89	G-S		
ST89-4694	Northern Natural Gas Co	Transco Energy Marketing Co	09-07-89	G-S		
ST89-4695	Northern Natural Gas Co	Peoples Natural Gas Co	09-07-89	B		
ST89-4696	Tennessee Gas Pipeline Co	East Ohio Gas Co	09-07-89	B		

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4697	Tennessee Gas Pipeline Co	East Ohio Gas Co	09-07-89	B		
ST89-4698	Natural Gas Pipeline Co. of America	Central Illinois Light Co	09-07-89	B		
ST89-4699	United Gas Pipe Line Co	Gulf South Pipeline Co	09-07-89	G-S		
ST89-4700	Valero Transmission, L.P	El Paso Natural Gas Co	09-08-89	C		
ST89-4701	ONG Transmission Co	Panhandle Eastern Pipe Line Co	09-08-89	C	02-05-90	24.32
ST89-4702	Panhandle Eastern Pipe Line Co	Coastal States Gas Transmission Co	09-08-89	B		
ST89-4703	Panhandle Eastern Pipe Line Co	Texas Gas Transmission Corp	09-08-89	G		
ST89-4704	Trunkline Gas Co	Texas Eatern Transmission Corp	09-08-89	G		
ST89-4705	Trunkline Gas Co	Central Illinois Light Co	09-08-89	B		
ST89-4706	Trunkline Gas Co	Union Electric Co	09-08-89	B		
ST89-4707	Trunkline Gas Co	Texas Gas Transmission Corp	09-08-89	G		
ST89-4708	Arkla Energy Resources	IESCO Intrastate	09-11-89	B		
ST89-4709	Arkla Energy Resources	Sun Gas, L.P	09-11-89	B		
ST89-4710	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	09-11-89	C		
ST89-4711	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	09-11-89	C		
ST89-4712	Houston Pipe Line Co	Black Marlin Pipeline Co	09-11-89	C		
ST89-4713	Tennessee Gas Pipeline Co	United States Gypsum Co	09-11-89	G-S		
ST89-4714	Natural Gas Pipeline Co. of America	Midwest Gas Co	09-11-89	B		
ST89-4715	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	09-11-89	B		
ST89-4716	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	09-11-89	B		
ST89-4717	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4718	Pacific Gas Transmission Co	Pacific Gas and Electric Co	08-12-89	B		
ST89-4719	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4720	Pacific Gas Transmission Co	Pacific Gas and Electric Co	09-12-89	B		
ST89-4721	Pacific Gas Transmission Co	Cascade Natural Gas Corp	09-12-89	B		
ST89-4722	Texas Eastern Transmission Corp	Transok, Inc	09-12-89	B		
ST89-4723	Texas Eastern Transmission Corp	Polaris Energy Corp	09-12-89	B		
ST89-4724	Texas Eastern Transmission Corp	Acadian Gas Pipeline System	09-12-89	B		
ST89-4725	Texas Eastern Transmission Corp	Rochester Gas & Electric Corp	09-12-89	B		
ST89-4726	Texas Eastern Transmission Corp	East Ohio Gas Co	09-12-89	B		
ST89-4727	Texas Eastern Transmission Corp	T. W. Phillips Gas & Oil Co	09-12-89	B		
ST89-4728	Texas Eastern Transmission Corp	SNG Intrastate Pipeline, Inc	09-12-89	B		
ST89-4729	Texas Eastern Transmission Corp	Mississippi Fuel Co	09-12-89	B		
ST89-4730	Texas Eastern Transmission Corp	Elizabethtown Gas Co	09-12-89	B		
ST89-4731	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing Co	09-12-89	G-S		
ST89-4732	Texas Gas Transmission Corp	Tejas Power Corp	09-13-89	G-S		
ST89-4733	Texas Gas Transmission Corp	Bishop Pipeline Corp	09-13-89	G-S		
ST89-4734	Texas Gas Transmission Corp	Brooklyn Interstate Natural Gas Corp	09-13-89	G-S		
ST89-4735	Northwest Pipeline Corp	Greeley Gas Co	09-13-89	G-S		
ST89-4736	Texas Gas Transmission Corp	NGC Intrastate Pipeline Co	09-13-89	B		
ST89-4737	Valero Transmission, L.P	Trunkline Gas Co	09-14-89	C		
ST89-4738	Panhandle Eastern Pipe Line Co	Transtate Gas Service Co	09-14-89	G-S		
ST89-4739	Panhandle Eastern Pipe Line Co	BHP Gas Marketing Co	09-14-89	G-S		
ST89-4740	Panhandle Eastern Pipe Line Co	Amarillo Natural Gas Co, Inc	09-15-89	G-S		
ST89-4741	Southern Natural Gas Co	OXY U.S.A., Inc	09-15-89	G-S		
ST89-4742	Southern Natrual Gas Co	Texican Natural Gas Co	09-15-89	G-S		
ST89-4743	Southern Natural Gas Co	Centran Corp	09-15-89	G-S		
ST89-4744	Transok, Inc	Phillips Gas Pipeline Co	09-15-89	C	02-12-90	32.50
ST89-4745	Delhi Gas Pipeline Corp		09-15-89	C	02-12-90	35.00
ST89-4746	Equitrans, Inc	Consolidated Fuel Corp	09-15-89	G-S		
ST89-4747	Equitrans, Inc	Equitable Gas Co	09-15-89	B		
ST89-4748	Northern Natural Gas Co	Apache Corp	09-15-89	G-S		
ST89-4749	Inland Gas Co., Inc. (The)	Energy Marketing Services, Inc	09-15-89	G-S		
ST89-4750	Inland Gas Co., Inc. (The)	King's Daughters' Medical Center	09-15-89	G-S		
ST89-4751	Inland Gas Co., Inc. (The)	A. C. Lawrence Leather Co, Inc	09-15-89	G-S		
ST89-4752	El Paso Natural Gas Co	Meridian Oil Trading, Inc	09-18-89	G-S		
ST89-4753	El Paso Natural Gas Co	TXO Gas Ventures Corp	09-18-89	G-S		
ST89-4754	El Paso Natural Gas Co	BP Gas Inc	09-18-89	G-S		
ST89-4755	Palo Duro Pipeline Co., Inc	Natural Gas P/L Co of America, et al	09-18-89	C		
ST89-4756	Supenn Pipeline Co	United Gas Pipe Line Co., et al	09-18-89	C	02-15-90	21.11
ST89-4757	Panhandle Eastern Pipe Line Co	Olympic Gas Pipeline	09-18-89	B		
ST89-4758	Northwest Pipeline Corp	Intermountain Gas Co	09-18-89	G-S		
ST89-4759	Northwest Pipeline Corp	Paiute Pipeline Co	09-18-89	G		
ST89-4760	Transcontinental Gas Pipe Line Corp	Phibro Distributors Corp	09-19-89	G-S		
ST89-4761	Transcontinental Gas Pipe Line Corp	Texas Gas Transmission Corp	09-19-89	G		
ST89-4762	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY, Inc	09-19-89	B		
ST89-4763	Transcontinental Gas Pipe Line Corp	Coastal States Gas Transmission Co	09-19-89	B		
ST89-4764	Transcontinental Gas Pipe Line Corp	Citizens Gas Supply Corp	09-19-89	G-S		
ST89-4765	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co of NY, Inc	09-19-89	B		
ST89-4766	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp	09-19-89	B		
ST89-4767	BP Gas Transmission Co	Panhandle Eastern Pipe Line Co	09-19-89	C	02-16-90	13.70
ST89-4768	Tennessee Gas Pipeline Co	Texas Gas Transmission Corp	09-20-89	G		
ST89-4769	El Paso Natural Gas Co	Meridian Oil Trading, Inc	09-19-89	G-S		
ST89-4770	United Gas Pipe Line Co	Arco Oil & Gas Co	09-19-89	G-S		
ST89-4771	Tarpon Transmission Co	Conoco, Inc	09-20-89	G-S		
ST89-4772	Tarpon Transmission Co	Anadarko Trading Co	09-20-89	G-S		
ST89-4773	Tarpon Transmission Co	Seagull Marketing Services, Inc	09-20-89	G-S		
ST89-4774	Tarpon Transmission Co	Chevron U.S.A., Inc	09-20-89	G-S		
ST89-4775	Texas Eastern Transmission Corp	Monterey Pipeline Co	09-20-89	B		
ST89-4776	Texas Eastern Transmission Corp	Commonwealth Gas Pipeline Corp	09-20-89	B		
ST89-4777	United Gas Pipe Line Co	Kogas Inc	09-20-89	G-S		

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4778	Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	09-21-89	B		
ST89-4779	Panhandle Eastern Pipe Line Co	Eli Lilly and Co	09-21-89	G-S		
ST89-4780	Panhandle Eastern Pipe Line Co	Panhandle Trading Co	09-21-89	G-S		
ST89-4781	Questar Pipeline Co	Marathon Oil Co	09-21-89	G-S		
ST89-4782	BP Gas Transmission Co	ANR Pipeline Co, et al	09-21-89	C	02-18-90	13.70
ST89-4783	El Paso Natural Gas Co	Texaco Gas Marketing, Inc	09-22-89	G-S		
ST89-4784	El Paso Natural Gas Co	Texaco Gas Marketing, Inc	09-22-89	G-S		
ST89-4785	Red River Pipeline	El Paso Natural Gas Co	09-22-89	C		
ST89-4786	Delhi Gas Pipeline Corp	El Paso Natural Gas Co	09-22-89	C		
ST89-4787	Trunkline Gas Co	American Central Gas Marketing Co	09-22-89	G-S		
ST89-4788	Panhandle Eastern Pipe Line Co	Boyd Rosene & Associates	09-22-89	G-S		
ST89-4789	Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	09-22-89	B		
ST89-4790	Equitrans, Inc	Equitable Gas Co	09-25-89	B		
ST89-4791	Tennessee Gas Pipeline Co	Equitrans, Inc	09-22-89	G		
ST89-4792	Tennessee Gas Pipeline Co	Yankee Gas Services Co	09-25-89	B		
ST89-4793	United Gas Pipe Line Co	Entrade Corp	09-25-89	G-S		
ST89-4794	United Gas Pipe Line Co	Graham Energy Marketing Co	09-25-89	G-S		
ST89-4795	United Gas Pipe Line Co	Neches Gas Distribution Co	09-25-89	B		
ST89-4796	Delta Natural Gas Co, Inc	Columbia Gulf Transmission Co	09-25-89	G-HT		
ST89-4797	Colorado Interstate Gas Co	Quivira Gas Co	09-26-89	B		
ST89-4798	Colorado Interstate Gas Co	Golden Gas Energies, Inc	09-26-89	B		
ST89-4799	Colorado Interstate Gas Co	Llano, Inc	09-26-89	B		
ST89-4800	Natural Gas Pipeline Co. of America	Acadian Gas Pipeline System	09-26-89	B		
ST89-4801	Natural Gas Pipeline Co. of America	BP Gas Transmission Co	09-26-89	B		
ST89-4802	Panhandle Eastern Pipe Line Co	Entrade Corp	09-26-89	G-S		
ST89-4803	Panhandle Eastern Pipe Line Co	Associated Natural Gas Co., Inc	09-26-89	G-S		
ST89-4804	Panhandle Eastern Pipe Line Co	Unicorp Energy, Inc	09-26-89	G-S		
ST89-4805	Panhandle Eastern Pipe Line Co	Gulf Ohio Corp	09-26-89	G-S		
ST89-4806	Panhandle Eastern Pipe Line Co	Centran Corp	09-26-89	G-S		
ST89-4807	Panhandle Eastern Pipe Line Co	Entrade Corp	09-26-89	G-S		
ST89-4808	Transwestern Pipeline Co	Amarillo Natural Gas Utility	09-27-89	B		
ST89-4809	Black Marlin Pipeline Co	Reliance Pipeline Co	09-27-89	B		
ST89-4810	Tennessee Gas Pipeline Co	Southeast Natural Gas Co	09-27-89	B		
ST89-4811	Panhandle Eastern Pipe Line Co	BP Gas Transmission Co	09-27-89	B		
ST89-4812	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	09-27-89	B		
ST89-4813	Panhandle Eastern Pipe Line Co	Indiana Gas Co	09-27-89	B		
ST89-4814	Panhandle Eastern Pipe Line Co	Arkansas Western Gas Co	09-27-89	B		
ST89-4815	Panhandle Eastern Pipe Line Co	Bishop Pipeline Corp	09-27-89	B		
ST89-4816	Panhandle Eastern Pipe Line Co	Indiana Gas Co	09-27-89	B		
ST89-4817	Panhandle Eastern Pipe Line Co	Indiana Gas Co	09-27-89	B		
ST89-4818	United Gas Pipe Line Co	Laser Marketing Co	09-27-89	G-S		
ST89-4819	United Gas Pipe Line Co	Midcon Marketing Corp	09-27-89	G-S		
ST89-4821	Northern Natural Gas Co	Citizens Gas Supply Corp	09-27-89	G-S		
ST89-4822	Northern Natural Gas Co	Median Oil Hydrocarbons, Inc	09-27-89	B		
ST89-4823	Northern Natural Gas Co	Western Gas Utilities	09-27-89	B		
ST89-4824	Northern Natural Gas Co	Village of Pender	09-26-89	B		
ST89-4825	Northern Natural Gas Co	Meridian Oil Trading, Inc	09-27-89	G-S		
ST89-4826	Northern Natural Gas Co	Great Plains Natural Gas Co	09-27-89	B		
ST89-4827	Williston Basin Interstate P/L Co	Associated Intrestate Pipeline Co	09-27-89	B		
ST89-4828	Natural Gas Pipeline Co. of America	BP Gas Inc	09-27-89	G-S		
ST89-4829	Natural Gas Pipeline Co. of America	Entex, Inc	09-27-89	B		
ST89-4830	Sea Robin Pipeline Co	Panhandle Trading Co	09-28-89	B		
ST89-4831	Sea Robin Pipeline Co	Olympic Pipeline Co	09-28-89	B		
ST89-4832	Louisiana Resources Co		09-28-89	C	02-25-90	32.32
ST89-4833	CNG Transmission Corp	Corning Natural Gas Corp	09-28-89	B		
ST89-4834	CNG Transmission Corp	Texas Ohio Gas, Inc	09-28-89	G-S		
ST89-4835	CNG Transmission Corp	Equitable Resources Marketing Co	09-28-89	G-S		
ST89-4836	CNG Transmission Corp	Hope Gas, Inc	09-28-89	B		
ST89-4837	United Gas Pipe Line Co	Texaco Gas Marketing, Inc	09-28-89	G-S		
ST89-4838	United Gas Pipe Line Co	Graham Energy Resources, Inc	09-28-89	B		
ST89-4839	United Gas Pipe Line Co	Texaco, Inc	09-38-89	G-S		
ST89-4840	United Gas Pipe Line Co	Reliance Gas Marketing Co	09-28-89	G-S		
ST89-4841	United Gas Pipe Line Co	Wintershall Corp	09-28-89	G-S		
ST89-4842	Natural Gas Pipeline Co. of America	Arkansas Western Gas Co	09-28-89	B		
ST89-4843	Natural Gas Pipeline Co. of America	Enogex Inc	09-28-89	B		
ST89-4844	Natural Gas Pipeline Co. of America	Pontchartrain Natural Gas System	09-28-29	B		
ST89-4845	Tennessee Gas Pipeline Co	Columbia Gas Development Corp	09-28-89	G-S		
ST89-4846	Tennessee Gas Pipeline Co	Equinox Gas Supply, Inc	09-28-89	G-S		
ST89-4847	Tennessee Gas Pipeline Co	Alcan Aluminum Co	09-28-89	G-S		
ST89-4848	Tennessee Gas Pipeline Co	Trunkline Gas Co	09-28-89	G		
ST89-4849	Tennessee Gas Pipeline Co	Texican Natural Gas Co	09-28-89	G-S		
ST89-4850	Tomcat	Texas Eastern Transmission Corp	09-29-89	C	02-26-90	11.00
ST89-4851	Valero Transmission, L.P	Natural Gas Pipeline Co. of America	09-29-89	C		
ST89-4852	Texas Gas Transmission Corp	Access Energy Pipeline Corp	09-29-89	B		
ST89-4853	Texas Gas Transmission Corp	Carrollton Utilities	09-29-89	B		
ST89-4854	Natural Gas Pipeline Co. of America	Texas Industrial Energy Co	09-29-89	B		
ST89-4855	Natural Gas Pipeline Co. of America	Reynolds Pipeline Systems, Inc	09-29-89	B		
ST89-4856	Natural Gas Pipeline Co. of America	Wisconsin Natural Gas Co	09-29-89	B		
ST89-4857	Moraine Pipeline Co	Carnation Co	09-29-89	G-S		
ST89-4858	United Gas Pipe Line Co	Amoco Production Co	09-29-89	G-S		
ST89-4859	United Gas Pipe Line Co	Transco Energy Marketing Co	09-29-89	G-S		

Docket number	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Expiration rate	Transportation
ST89-4860	United Gas Pipe Line Co	American Natural Gas Corp	09-29-89	G-S		
ST89-4861	United Gas Pipe Line Co	American Central Gas Marketing Co	09-29-89	G-S		
ST89-4862	SNG Intrastate Pipeline, Inc	Southern Natural Gas Co	09-29-89	C	02-26-90	35.00
ST89-4863	Southern Natural Gas Co	Hadson Gas Systems, Inc	09-29-89	G-S		
ST89-4864	Southern Natural Gas Co	Polaris Corp	09-29-89	B		
ST89-4865	Algonquin Gas Transmission Co	Commonwealth Gas Co	09-29-89	B		
ST89-4866	Algonquin Gas Transmission Co	City of Norwich, Dept. of Public Util	09-29-89	B		
ST89-4867	Algonquin Gas Transmission Co	Southern Connecticut Gas Co	09-29-89	B		
ST89-4868	Sea Robin Pipeline Co	Olympic Pipeline Co	09-29-89	B		
ST89-4869	Sea Robin Pipeline Co	Baltimore Gas and Elect. Co, et al	09-29-89	B		
ST89-4870	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	09-29-89	B		
ST89-4871	Transcontinental Gas Pipe Line Corp	City of Blacksburg	09-29-89	B		
ST89-4872	Transcontinental Gas Pipe Line Corp	City of Fountain Inn	09-29-89	B		
ST89-4539	CSX Intrastate Gas Co		10-16-89	C	03-15-90	19.94

*Notice of Transactions does not constitute a determination that filings comply with Commission Regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42372, 10/18/85).

**The intrastate pipeline has sought Commission approval of its transportation rate pursuant to §284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-26436 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ90-1-20-000]

Algonquin Gas Transmission Co.; Proposed Changes In FERC Gas Tariff

November 2, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on , 1989, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective November 1, 1989

Substitute Thirty-sixth Revised Sheet No. 201
Substitute Thirty-seventh Revised Sheet No. 203
Substitute Thirty-third Revised Sheet No. 204
Second Substitute Thirtieth Revised Sheet No. 205

Algonquin states that it is filing the above listed tariff sheets in conformance with the terms and conditions of its PGA, section 17 of the General Terms and Conditions as found in Algonquin's compliance filing of October 27, 1989, in Docket No. RP86-41-000, pursuant to the Commission's Order Approving Contested Offer Of Settlement Subject To Conditions issued April 14, 1989, as modified and clarified by the Commission's Order Granting In Part And Denying In Part Rehearing, issued October 6, 1989. The instant filing reflects the roll in of costs associated with Algonquin's purchases to supply its sales services under Rate Schedules F-1, WS-1, I-1, E-1, F-2, F-3 and F-4. Algonquin's calculations include Texas Eastern's Standby Charges under Texas Eastern's Rate Schedules CD-1 and CD-2. The inclusion of Texas Eastern's Standby charges is predicated upon the Commission granting Algonquin's request for a waiver of the Commission's regulations as necessary to permit such inclusion. Algonquin states that it made such a request on June 26, 1989, in Docket No. RP89-199-000 and on October 17, 1989, in Docket No. RP90-13-000. Both filings are pending before the Commission.

Algonquin states that the revised rates for Rate Schedules F-1, WS-1, I-1, E-1, F-2, F-3 and F-4 reflect Algonquin's estimate of sales for the three (3) month period beginning December 1, 1989, and those changes in rates in the services underlying such schedules.

Algonquin states that the effect of the changes in the underlying rates is to decrease the demand-1 charge by 12.5¢ per MMBtu, decrease the demand-2 charge by 0.50¢ per MMBtu and increase the commodity charge by 47.3¢ per MMBtu for the effective period of this Quarterly PGA.

Furthermore, Algonquin is requesting a waiver of the requisite 30 day notice period and an effective date of November 1, 1989, instead of December 1, 1989. Algonquin states that such a waiver is made necessary in order to allay the effect of the extraordinary increase in its cost of purchased gas on Algonquin's Unrecovered Purchased Gas Cost, Account No. 191. All the changes proposed by Algonquin are fully set forth in Algonquin's filing.

Algonquin notes that copies of the filing were served upon the affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 89-26372 Filed 11-8-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ90-1-22-000]

CNG Transmission Corp.; Proposed Changes In FERC Gas Tariff

November 2, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on October 31, 1989, pursuant to section 4 of the Natural Gas Act, part 154 of the Commission's regulations (18 CFR part 154) and section 12 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff:

Fourteenth Revised Sheet No. 31

The filing, CNG's quarterly PGA, is tendered to become effective on December 1, 1989.

The filing, compared to the rates shown on Substitute Thirteenth Revised Sheet No. 31, would increase CNG's RQ and CD commodity rates by 10.34 cents per dekatherm, decrease D-1 demand rates by 9.00 cents per dekatherm and decrease D-2 demand rates by 0.60 cents per dekatherm. Other sales rates would change correspondingly.

Copies of the filing were served upon CNG's sales customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211). All motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26374 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that on October 31, 1989, Carnegie Natural Gas Company ("Carnegie") tendered for filing, as its regularly-scheduled quarterly Purchased Gas Adjustment ("PGA") with a proposed effective date of December 1, 1989, the following two sets of alternate tariff sheets to its FERC Gas Tariff:

Alternate No. 1: To be implemented if Carnegie's First Revised Volume No. 1 to its FERC Gas Tariff is effective on the date these sheets become effective:

Nineteenth Revised Sheet No. 47
Nineteenth Revised Sheet No. 48

Alternate No. 2: To be effective on the date Carnegies Second Revised Volume No. 1 to its FERC Gas Tariff becomes effective, but not prior to December 1, 1989:

Second Revised Sheet No. 8
Second Revised Sheet No. 9

Carnegie explains that the filing of alternate sheets arises because, on September 29, 1989, Carnegie filed a reorganized Volume No. 1 (*i.e.*, "Second Revised Volume No. 1") to its FERC Gas Tariff with a proposed effective date of November 1, 1989. If Second Revised Volume No. 1 is not in effect on the date these quarterly PGA rates become effective, then the Alternate No. 1 sheets will apply. Conversely, when Second Revised Volume No. 1 becomes effective, the Alternate No. 2 sheets will apply.

Carnegie states that pursuant to the PGA clause in its FERC Gas Tariff, it proposes to adjust its rates effective December 1, 1989 to reflect a $.1006 per Dth increase in the applicable commodity components of its LVWS and CDS Rate Schedules. The D-1 and D-2 components of the LVWS and CDS rate schedules remain unchanged from Carnegie's last fully-supported (out-of-cycle) PGA filed in Docket No. TQ90-1-63-000. The proposed increase in the LVIS Rate Schedule is $.1006 per Dth.

Carnegie states that copies of its filing were served on all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26373 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

November 2, 1989.

Take notice that on October 21, 1989, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the following revised tariff sheets in its FERC Gas Tariff, First Revised Volume No. 1, containing changes in rates for effectiveness on the dates indicated below:

Revised tariff sheets	Proposed effective dates
Thirtieth Revised Sheet No. 7.	November 1, 1989.
Thirty-First Revised Sheet No. 7.	December 1, 1989.

According to Granite State, the rate changes on Thirtieth Revised Sheet No. 7 reflect revised purchased gas costs for the remainder of the fourth quarter of 1989. It is stated that the adjusted purchases show increases in purchases from Granite State's firm suppliers, Tennessee Gas Pipeline Compnay (Tennessee), Algonquin Gas Transmission Company and Shell Canada, Limited, and lesser spot market purchases when compared with the most recent purchased gas cost adjustment filings in Docket Nos. TQ90-1-4-000 and TQ90-2-4-000. It is further stated that the reduction in projected spot market purchases is attributable to a decrease in the availability of interruptible transportations capacity on the Tennessee system during colder weather. According to Granite State, its purchases from Boundary Gas, Inc. are subject to a seasonal rate increase each November 1, and such increase is also reflected in the revised rates on Thirtieth Revised Sheet No. 7.

According to Granite State, the revised rates on Thirty-First Revised Sheet No. 7 reflect the elimination of the surcharge related to deferred gas costs from its sales rates as of December 1, 1989. It is stated that the surcharge adjustment has been eliminated in compliance with the transition rules under the Commission's revised purchased gas cost adjustment procedures established in Order Nos. 483 and 483-A. Granite State further states that, except for the removal of the surcharge, the purchased gas costs underlying the rates on Thirty-First Revised Sheet No. 7 are the same as those reflected in the rates on Thirtieth Revised Sheet No. 7.

Granite State further states that copies of its filing were served upon its customers, Bay State Gas Company and Northern Utilities, Inc., and the regulatory commissions of the States of Maine, Massachusetts, and New Hampshire.

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 sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26375 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-29-000]

The Inland Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

November 3, 1989.

Take notice that the Inland Gas Company, Inc., (Inland) on October 31, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 to be effective December 1, 1989:

Primary Tariff Sheet

Fifth Revised Sheet No. 10

Alternate Tariff Sheet

Alternate Revised Sheet No. 10

Inland states that the foregoing tariff sheets relate to Inland's Feburary 7, 1989, filing in Docket No. RP89-65-000 in which Inland established procedures to recover take-or-pay costs, billed to it under Order No. 500 by Tennessee Gas Pipeline Company (Tennessee) by means of a volumetric surcharge to its firm and interruptible transportation rates. In August 1989, Tennessee began billing additional take-or-pay charges to Inland pursuant to updated filings in Tennessee's Docket No. RP88-191. It is these additional take-or-pay charges amounting to $3,098,241 which Inland seeks to recover via an increase in the volumetric surcharge.

Inland proposes that the additional take-or-pay recovery be amortized over a 72-month period in order to minimize the impact of the additional charge. Such amortization produces an increase of $.1166 per Mcf in the existing surcharge of $.3381 per Mcf resulting in total take-or-pay surcharge of $.4547 per Mcf.

Inland proposes that all billing and recovery matters surrounding the additional take-or-pay surcharge which is the subject of this filing be governed in the same fashion as such matters are resolved with regard to the existing surcharge under the Stipulation and Agreement (Stipulation) filed September 29, 1989, in Docket No. RP89-65-000. In the event the Stipulation is certified to the Federal Energy Regulatory Commission (Commission) on an expedited basis, it is appropriate for the Commission to act upon the instant take-or-pay recovery flow through filing in conjunction with the pending Stipulation. For that purpose, the primary tariff sheet tendered with this filing reflects the base rates pursuant to the Stipulation. Should the Commission act upon this filing prior to acting upon the Stipulation, Inland has tendered an alternate tariff sheet which reflects the base rates accepted subject to refund by the Commission's March 31, 1989, order in Docket No. RP89-65-000.

Copies of the filing were served upon Inland's customers and interested state commissions and to each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP89-65-000.

Any person desiring to be heard or to protest said filing, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NW., Washington, DC 20246, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Inland's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26428 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-15-000]

Mid Louisiana Gas Co.; Filing

November 2, 1989

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 31, 1989, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective December 1, 1989:

	Superseding
Seventy-First Revised Sheet No. 3a.	Second Substitute Seventieth Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Seventy-First Revised Sheet No. 3a is to reflect a $.0203 per MCF increase in its current cost of gas.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene of Protest of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice of Procedure (18 CFR 1.8 and 1.10). All such petitions of protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26376 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-35-006]

Midwestern Gas Transmission Co.; Tariff Filing

(November 3, 1989)

Take notice that on October 30, 1989, Midwestern Gas Transmission Company (Midwestern) filed the following revisions to its FERC Gas Tariff, to be effective September 1, 1989.

First Revised Sheet Nos. 41-46
First Revised Sheet Nos. 50-55
Second Revised Sheet No. 62
First Revised Sheet No. 62A
First Revised Sheet No. 62B
First Revised Sheet No. 62 D-F
First Revised Sheet No. 121
First Revised Sheet No. 123
First Revised Sheet No. 131

Midwestern states that this filing is made to comply with the Commission's order on September 29, 1989, which directed Midwestern to modify or replace certain provisions of the open access tariff filed and accepted by the Commission in the referenced docket. Midwestern is also including in this filing revisions which clarify certain provisions in the tariff or correct minor errors or omissions in the original filing. These revisions are being made in response to formal comments in this docket and informal comments submitted parties and customers.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its Southern System and affected stated 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 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be

filed on or before Nov. 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26429 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-234-002]

Moraine Pipeline Co; Proposed changes in FERC Gas Tariff

November 3, 1989

Take notice that on October 30, 1989, Moraine Pipeline Company (Moraine) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, tariff sheets to be effective October 1, 1989.

Moraine states that the tariff sheets were submitted in compliance with the Commission's order issued September 29, 1989, at Docket No. RP89-234-000.

Moraine requested waiver of the Commission's Regulations to the extend necessary to permit the tariff sheets to become effective October 1, 1989.

A copy of the filing is being mailed to interested state regulatory agencies and all parties set out on the official service list at Docket No. RP89-234-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26430 Filed 11-8-89; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-24-000 and TM90-2-26-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

November 3, 1989.

Take notice that on October 30, 1989, Natural Gas Pipeline Company of America (Natural) submitted for filing Seventh Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective December 1, 1989.

Natural states that the purposes of this filing are: (1) to reflect additional take-or-pay buyout, buydown and other contract reformation costs (transition costs) related to gas purchase contracts in litigation at March 31, 1989 which were incurred since Natural's May 31, 1989 Order No. 500 filing at Docket No. RP89-189-000; and (2) to reflect accrued interest for the months of June through November of 1989. Interest is accrued only on transition costs included for recovery in Natural's prior recovery filings.

Natural requests that the Commission grant any waivers it deems necessary to allow the tariff sheets to become effective December 1, 1989. A copy of the filing was mailed to Natural's jurisdictional sales customers, interested state regulatory agencies, and all parties set out on the official service list in Docket No. RP88-94-000.

Any person desiring to be heard or to protest the subject 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. All such motions or protests must be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26437 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that on October 31, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-Fifth Revised Sheet No. 4, proposed to become effective January 1, 1990.

The filing is National's Annual PGA in compliance with §§ 154.305 of the Commission's Regulations. National states that the purpose of the tariff sheet is to reflect the quarterly Purchased Gas Cost adjustments required under the Commission's Regulations.

Further, National states that Twenty-Fifth Revised Sheet No. 4 contains the base tariff rates filed in Docket No. RP90-14-000 on October 19, 1989. The net increase in National's commodity rate from the October 19, 1989 filing of 61.69 cents per dekatherm ("Dth"), consists of a purchased gas cost increase of 78.87 cents per Dth, and a 17.18 cents per Dth negative commodity surcharge. The net decrease in National's demand charge of 41 cents per Dth reflects a 15 cents per Dth decrease in demand charges that will be paid pipeline suppliers, and a 26 cents per Dth negative surcharge.

National states that copies of this filing were served upon the Company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

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 Rule 214 or 211 of the Commission's Procedural Rules (18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before November 24, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26377 Filed 11-8-89; 8:45 am]

BILLING CODE 4717-01-M

[Docket No. TM90-3-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1989.

Take notice that on October 31, 1989, National Fuel Gas Supply Corporation ("National") tendered for filing as part

of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective December 1, 1989.

Tenth Revised Sheet No. 71, Page 1 of 2
Tenth Revised Sheet No. 71, Page 2 of 2
Seventh Revised Sheet No. 71–B, Page 1 of 2
Seventh Revised Sheet No. 71–B, Page 2 of 2
Tenth Revised Sheet No. 72, Page 1 of 3
Tenth Revised Sheet No. 72, Page 2 of 3
Tenth Revised Sheet No. 72, Page 3 of 3
Seventh Revised Sheet No. 72–B, Page 1 of 4
Seventh Revised Sheet No. 72–B, Page 2 of 4
Seventh Revised Sheet No. 72–B, Page 3 of 4
Seventh Revised Sheet No. 72–B, Page 4 of 4

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, First Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill take-or-pay charges to National are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipeline Corporation, and Tennessee Gas Pipeline Company.

Copies of National's filing were served on National's jurisdictional customers and on the 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 Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26378 Filed 11–8–89; 8:45 am]

BILLING CODE 6717–01–M

[TQ90–1–27–000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1989

Take notice that North Penn Gas Company (North Penn) on October 31, 1989, tendered for filing Ninety-Sixth Revised Sheet No. PGA–1 to its FERC Gas Tariff First Revised Volume No. 1.

The revised tariff sheet is being filed pursuant to section 14 (PGA Clause) of the General Terms and Conditions of North Penn's FERC Gas Tariff to reflect changes in the cost of gas for the period December 1, 1989 through February 28, 1990 and is proposed to be effective December 1, 1989. The proposed change reflects a decrease in the average cost of gas for the G–1 Rate Schedule of 72.043¢ per Mcf.

While North Penn believes that no waivers are necessary in order to permit this filing to become effective December 1, 1989, as proposed, North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective December 1, 1989, as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and State Commissions shown on the attached service list.

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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26391 Filed 11–8–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–219–003 and TM90–1–37–003]

Northwest Pipeline Corp.; Compliance Filing

November 3, 1989.

Take notice that on October 27, 1989, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Substitute Fifty-Fifth Revised Sheet No. 10
Fifty-Seventh Revised Sheet No. 10 (Effective November 1, 1989)
Thirty-First Revised Sheet No. 10–A

Original Volume No. 1–A

Twenty-First Revised Sheet No. 201

Original Volume No. 2

Eleventh Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to comply with Ordering Paragraph (D) of the October 12, 1989 order issued by the Commission in Docket No. RP89–219–000, 001 and TM90–1–37–000, 001. In its order, the Commission directed Northwest to refile several tariff sheets contained in Northwest's last scheduled quarterly SSP Charge update, filed August 24, 1989, to reflect the elimination of certain carrying charges that were included in the Commodity SSP surcharge calculation. The elimination of such carrying charges reduces Northwest's Commodity SSP surcharge from 3.62 cents per MMBtu to 3.59 cents per MMBtu effective October 1, 1989.

Northwest states that a copy of this filing has been sent to all parties of record in Docket No. RP89–137 and to all jurisdictional customers and affected 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 §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26431 Filed 11–8–89; 8:45am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. TA90–1–6–000]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

November 2, 1989.

Take notice that on October 31, 1989, Sea Robin Pipeline Company (Sea Robin) tendered for filing the following tariff sheet:

Original Volume No. 1

Fifty-Ninth Revised Sheet No. 4

Sea Robin states that the proposed effective date of the above referenced tariff sheet in this docket is January 1, 1990. The above referenced tariff sheet is being filed pursuant to § 154.310 of the Commission's regulations to reflect the changes in Sea Robin's purchased gas cost under the adjustment provisions of Sea Robin's FERC Gas Tariff.

Sea Robin states that the tariff sheet is filed to reflect a decrease in gas cost of $.0100 under Rate Schedules X–1 and X–2. This produces a rate after current adjustment of $3.2223. Sea Robin states that there is no change in gas cost under Rate Schedules X–7 and X–8.

Sea Robin states that the tariff sheet also reflects a surcharge adjustment of $10.34. This large surcharge is the result of a further reduction in Sea Robin's recent sales and the amortizing of the deferred purchased gas cost balance over a period of three months, January 1, 1990 through March 31, 1990, rather than twelve months. The shortened amortization period is the result of Sea Robin receiving notice from its two sales customers, Southern Natural Gas and United Gas Pipe Line Company of their intent to cancel their sales contracts, upon the expiration of their primary terms—March 31,1990.

Sea Robin states that the revised tariff sheet and supporting data are being mailed to its jurisdictional sales customers and to 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 Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before November 24, 1989.

Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26379 Filed 11–8–89; 8:45am]

BILLING CODE 6717–01–M

[Docket No. RP89–225–002]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

November 3, 1989

Take notice that on October 30, 1989, South Georgia Natural Gas Company ("South Georgia") filed, under protest, proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets are being filed with a proposed effective date of March 1, 1990.

South Georgia states that the purpose of this filing is to revise its original filing submitted on August 31, 1989, pursuant to the Commission's order of September 29, 1989, in Docket No. RP89–225–000 ("September 29 Order"). The September 29 Order directed South Georgia to file revised tariff sheets reinstating the standby charge under its G–1 and I–1 Rate Schedules and the original eligibility requirements under the G–1 Rate Schedule.

South Georgia asserts that the instant filing is being made under protest, without prejudice to South Georgia's right to seek rehearing of the Commission's September 29 Order requiring such revisions to be made, and is in no way intended to represent agreement by South Georgia with any of the principles and justification attending the September 29 Order.

In addition, South Georgia has restated its accumulated depreciation reserve in the instant filing to reflect the approval of its Stipulation and Agreement in Docket No. RP87–13–000 on October 5, 1989. The cost of service of the reserve adjustment is an increase of $12,788.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers, shippers and interested state commissions as well as the parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–26432 Filed 11–8–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP90–25–000 and TM90–2–42–000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 3, 1989

Take notice that Transwestern Pipeline Company ("Transwestern") on October 30, 1989, tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective Dec. 1, 1989:

Effective December 1, 1989

72nd Revised Sheet No. 5
Original Sheet No. 5D(ii)
2nd Revised Sheet No. 5E
Original Sheet No. 5E(i)
39th Revised Sheet No. 6
7th Revised Sheet No. 37
3rd Revised Sheet No. 88
3rd Revised Sheet No. 89
3rd Revised Sheet No. 90
2nd Revised Sheet No. 90A

Transwestern states that without prejudice to supplemental filings that may be permitted by any final order in the Order 500 proceedings, these tariff sheets are filed pursuant to Section 25.6 of the General Terms and Conditions of Transwestern's FERC Gas Tariff. Pursuant thereto, Transwestern must file on or before November 1, 1989 and annually thereafter to adjust the TCR Surcharge to account for actual versus estimated interest amounts and to estimate interest expense for the upcoming period. In addition, Transwestern is also proposing to recover through its TCR Fee and TCR Surcharge, settlement dollars paid to producers since March 31, 1989 and the interest associated with those dollars from the date of payment to November 30, 1989. The total amount paid was $600,000, and interest from the date of payment of June 5, 1989, to November 30, 1989 is $33,162.00. The combined total of $633,162.00 represents "TCR Amount Four". The request for recovery of "TCR Amount Four" dollars paid is being made pursuant to the Section 25.2b (Litigation Exception) of the General Terms and Conditions of Transwestern's FERC Gas Tariff.

In addition to the foregoing, Transwestern is proposing in the instant filing to revise the termination date of the amortization period from November 30, 1993 to March 31, 1992. Transwestern states that it competes directly with El Paso Natural Gas Company (El Paso) for transportation to southern California. El Paso's surcharge amortization period terminates March 31, 1992. Transwestern believes it is appropriate that both pipelines amortization periods coincide. Transwestern states that this

will reduce the interest included in the surcharge over the remaining amortization period by $7.7 million.

Transwestern proposes the TCR Surcharge Rate to be $0.1707/dth, which represents an increase of $0.0507/dth from the last currently effective TCR surcharge rate of $0.1200/dth. Transwestern states that such increase is due to the aforementioned revision to the amortization period. The TCR surcharge is based on the adjusted balances ending November 30, 1989 for TCR Nos. 1, 2 and 3 as reflected on Page 2 of the workpapers and 50% of TCR No. 4 as reflected on page 6 of the workpapers.

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 N. Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before 11/13/89. 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 party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26433 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-222-002 and RP89-48-003]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 3, 1989.

Take notice that Transwestern Pipeline Company (Transwestern) on October 30, 1989, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Substitute 1st Revised Sheet No. 25A
Substitute Original Sheet No. 25B
Substitute Original Sheet No. 25C
Substitute Original Sheet No. 25D
Substitute Original Sheet No. 29B
2nd Substitute Original Sheet No. 29C
Substitute Original Sheet No. 29D
Original Sheet No. 29E
Substitute 4th Revised Sheet No. 30
Substitute Original Sheet No. 32B
Substitute Original Sheet No. 32C
Substitute Original Sheet No. 32D
4th Revised Sheet No. 33
Original Sheet No. 33A

Transwestern states that on August 30 and September 11, 1989, it filed in the above designated dockets a proposal to institute scheduling and balancing penalties within its FTS-1, ITS-1 and TP-1 Rate Schedules. In addition, Transwestern proposed to modify tariff provisions concerning unauthorized gas flow, waiver of penalty payments and the reservation of remedies other than those listed in the tariff. By Order dated September 29, 1989, the Commission accepted the tariff sheets to be effective October 1, 1989, subject to certain modifications and subject to refund. The Commission further consolidated Docket Nos. RP89-222-000 and RP89-222-001 with Transwestern's rate case proceeding in Docket No. RP-8948-000 for hearing.

Transwestern states that in its September 29, 1989 order, the Commission directed Transwestern to refile to change the tolerance level for scheduling penalties from two percent (2%) to four percent (4%). Second, Transwestern was requested to clarify that under the balancing penalty provision, Transwestern may not assess more than one penalty under the different provisions for the same imbalance.

Transwestern states that the Commission directed Transwestern to modify the unauthorized gas flow provision to provide a prior notice period before Transwestern began retaining subsequent unauthorized gas deliveries and a make-up period for the party to resolve the unauthorized imbalance volumes delivered prior to notification. The Commission instructed Transwestern to also clarify the effect of the 30,000 dth tolerance level. Transwestern was additionally requested to clarify the circumstances under which the unauthorized gas penalty would apply.

Transwestern states that the Commission also directed Transwestern to revise Rate Schedule ITS-1 to incorporate the same federal income tax reimbursement provision related to facility cost reimbursements as that set forth in its Rate Schedule FTS-1.

Transwestern states that the above-listed tariff sheets are filed in compliance with the September 29, 1989 Commission Order. The proposed effective date is October 1, 1989.

Transwestern requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary so as to permit the above-listed tariff sheets to become effective on the dates requested.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26434 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-28-000]

United Gas Pipe Line Co.; Proposed Change in FERC Gas Tariff

November 3, 1989.

Take notice that on October 31, 1989, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, tendered for filing the following tariff sheet as part of its FERC Gas Tariff, First Revised Volume No. 1:

To Be Effective November 1, 1989

Twenty-Second Revised Sheet No. 99-A

United states that this tariff sheet reflects revised Demand-1 Billing Determinants for one of United's Rate Schedule PL Customers, Texas Eastern Transmission Corporation (Texas Eastern). This revision is a necessary part of a recent settlement with Texas Eastern. As such it will have no effect on the rates and charges specified in United's Base Stipulation and Agreement (Settlement) in Docket No. RP88-92 et al., reflected on the currently effective Sheet 4 Series on United's FERC Gas Tariff, First Revised Volume No. 1.

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, on or before November 13, 1989, and in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Any person desiring to become a party must petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26435 Filed 11-8-89; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Basic Energy Sciences Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Basic Energy Sciences Advisory Committe (BESAC).

Date and time: November 29, 1989—8 a.m.–5 p.m.

Place: Holiday Inn/Dallas/Ft. Worth Airport, 4440 West Airport Freeway, Irving, Texas 75061.

Contact: Louis C. Ianniello, Department of Energy, Office of Basic Energy Sciences (ER–11), Office of Energy Research, Washington, DC 20545, Telephone: 301–353–3081.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Basic Energy Sciences (BES) program.

Tentative Agenda: Briefings and discussions of:

November 29, 1989

- Resolution of Pending Issues vis-a-vis 1989 Report
- Preparation of 1989 Final Report
- New Business
- Comments by the Public

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Louis C. Ianniello at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on November 6, 1989.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 89–26488 Filed 11–8–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 89–43–NG]

Natural Gas Clearinghouse; Order Granting Blanket Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order granting blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order extending and amending Natural Gas Clearinghouse's (NGC) blanket authorization to import natural gas. The amended order authorizes NGC to import up to 600 Bcf of gas, including liquefied natural gas (LNG), from Canada, Mexico, and other countries, and to export up to 130 Bcf of gas, including LNG, to Mexico, Canada, and other countries, over a two-year term beginning November 1, 1989, through October 31, 1991.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 2, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–26485 Filed 11–8–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–60–NG]

Northwest Pipeline Corp.; Interim Order Amending Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of interim order amending authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting an extension of the term of the existing import authorization of Northwest Pipeline Corporation (Northwest) beyond its October 31, 1989, expiration date for a limited period until a final decision is made on Northwest's application pending before the Office of Fossil Energy in Docket No. 89–60–NG. The order grants Northwest interim authority to continue to import up to 152 MMcf per day of Canadian natural gas via the import point near Kingsgate, British Columbia, in order to prevent a service interruption to customers dependent on Northwest's imported gas supply. This authority is only valid until a final determination is made on Northwest's request to extend the term of its existing authorization to October 31, 2004, in accordance with revised agreements with its supplier and customers.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 3, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–26486 Filed 11–8–89; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–67–NG]

Sierra Pacific Power Co.; Application To Import Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to import natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 29, 1989, of an application filed by Sierra Pacific Company (Sierra) requesting blanket authorization to import up to 39,16 Bcf of Canadian natural gas for short-term and spot market sales over a two-year period beginning on the date of the first delivery. Sierra intends to import this gas utilizing existing pipeline facilities. Sierra also proposes to submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene,

notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m. e.s.t., December 11, 1989.

ADDRESS: Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

William C. Daroff, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9516

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Sierra, a Nevada corporation with its principal place of business in Reno, Nevada, is a public utility presently engaged in, among other things, the distribution and sale of natural gas in intrastate commerce in Nevada. Sierra indicates that the requested authority would be used to import the natural gas from a variety of Canadian suppliers under firm supply contracts or contracts of month-to-month duration for system supply and to fuel its generation power plants. The applicant states that gas imported under this proposal will be price competitive with available domestic gas supplies.

In support of its application, Sierra asserts that the proposed import is in the public interest because the terms of each sale will be freely negotiated, thus ensuring that the arrangement will be competitive while providing an efficient allocation of natural gas in the market place. In addition, the applicant asserts that the need for the gas is demonstrated by the fact that it has an established market for the gas in both its powerplants and in its local gas distribution operations. Sierra also states that the security of supply is demonstrated by the fact that its suppliers will be active producers engaged in the exploration and production of natural gas with an adequate reserve base.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import authority. The applicant asserts that this import arrangement will be competitive and in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above no later than 4:30 p.m., e.s.t., December 11, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties under this notice, in accordance with 10 CFR 590.316.

A copy of Sierra's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 3, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–26487 Filed 11–8–89; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders for Week of September 4 Through September 8, 1989

During the week of September 4 through September 8, 1989, the decisions and orders summarized below were issued with respect to applications for refund filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were

dismissed by the Office of Hearings and Appeals.

Refund Applications

AJO Trading Corp. 9/8/89, RC272–69

The DOE issued a Supplemental Order concerning two Applications for Refund submitted in the crude oil refund proceeding on behalf of Ajo Trading Corp. The OHA granted Ajo Trading Corp. two duplicate refunds: one for Case No. RF272–48602 in *David V. Sandowsky, et al.* (Case Nos. RF272–48601, *et al.*); the other for Case No. RF272–60597 in *Robert F. Kibler Farm, et. al.* (Case Nos. RF272–60400, *et al.*). Accordingly, the OHA rescinded the refund granted to Ajo Trading corp. (Case No. RF272–60597) in *Robert F. Kibler Farm, et al.* (Case Nos. RF272–60400, *et al.*).

Atlantic Richfield company/Allied Tank Lines et al., 9/6/89, RF304–2716 et al.

The DOE issued a Decision and Order concerning four applications filed in the Atlantic Richfield special refund proceeding. All the applicants were resellers or retailers that did not attempt to demonstrate injury and elected to limit their refunds to 41 per cent of their full volumetric allocations of the ARCO consent order funds. The refunds granted in this decision totalled $60,306, including $14,546 in accrued interest.

Atlantic Richfield Company/Arden's Arco, et al., 9/8/89, RF304–7402, et al.

The DOE issued a Decision and Order concerning 42 Applications for Refund filed in the Atlantic Richfield Company special refund proceeding. Each of the applicants adequately documented the volume of its ARCO purchases. Thirty-two of the applicants were either end users or reseller/retailers requesting refunds of $5,000 or less. Four of the applicants elected to limit their refund to $5,000. The two remaining applicants elected to limit their refund to 41 per cent of the volumetric amount. The refunds granted in this decision totalled $110,419, including $26,640 in accrued interest.

Atlantic Richfield Company/Casco FS Cooperative, 9/7/89, RF304–1691

The DOE issued a Decision and Order concerning an application for refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding by Casco FS Cooperative (Casco). As a member-owned farm supply cooperative that documented its purchases of 2,844,038 gallons of ARCO products, Casco was presumed injured. In addition, Casco provided certification that it would pass the refund through to its customers in the form of patronage refunds. The refund granted in this decision totalled $2,794, including $674 in accrued interest.

Atlantic Richfield Company/Elm Motors Fuel Oil et al., 9/6/89 RF304–2612 et al.

The DOE issued a Decision and Order concerning 40 Applications for Refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding. All of the applicants documented the volume of their ARCO purchases and were end-users or reseller/retailers requesting refunds of $5,000 or less. Therefore, each applicant was presumed injured. The refunds granted in this Decision totalled $48,946, including $11,810 in accrued interest.

Atlantic Richfield Company/Hardin County Butane Gas Company, 9/6/89 RF304–10096, RF304–10097

The DOE issued a Supplemental Order concerning a Decision and Order issued on March 21, 1989 to *Fuller L.P. Gas Service, et al.* in the Atlantic Richfield Company (ARCO) special refund proceeding. In that decision, Cecil Phillips and Cecil C. Phillips were granted a small claims presumption refund based on ARCO purchases they made on behalf of three businesses, including Hardin County Butane Gas Company. Subsequently, the DOE determined that a portion of the refund issued to the claimants under the business name Hardin County Butane Gas Company was based on purchases actually made by another firm, Hardin County Butane Gas Company, Inc. Accordingly, that portion of the claimants' refund was rescinded.

Atlantic Richfield Company/Kim's Arco, 9/6/89 RF304–10279

The DOE issued a Supplemental Order concerning an Application for Refund filed by Kim's Arco (Kim's) in the Atlantic Richfield Company special refund proceeding. The address supplied by Kim's in its application is incorrect, and the applicant cannot be located. Therefore, the DOE rescinded the refund granted to Kim's, thus disbursing no funds to Kim's Arco from the ARCO deposit fund escrow account.

Atlantic Richfield Company/Loeder Oil Co., Inc., et al., 9/8/89 RF304–7206 et al.

The DOE issued a Decision and Order concerning 67 Applications for Refund filed by end-users, retailers or resellers of refined petroleum products covered by a Consent Order that the DOE entered into with Atlantic Richfield Company. Each applicant submitted information indicating the volume of its purchases from ARCO. In 64 of these claims, the applicants were eligible for a refund below the small claims threshold of $5,000. In the remaining 3 claims, each of the applicants elected to limit its claim to $5,000. The sum of the refunds approved in this Decision is $121,977, representing $92,258 in principal and $29,719 in accrued interest.

Atlantic Richfield Company/Milton Smith Oil Service, et al. 9/8/89 RF304–7406 et al.

The DOE issued a Decision and Order concerning 16 Applications for Refund filed in the Atlantic Richfield Company special refund proceeding. Each of the applicants adequately documented the volume of its ARCO purchases. All of the applicants were reseller/retailers requesting refunds of $5,000 or less. The refunds granted in this decision totalled $11,604, including $2,828 in accrued interest.

Atlantic Richfield Company/Polar Industries, the Mercury Oil Co., 9/6/89 RF304–5220, et al.

The DOE issued a Decision and Order concerning 13 Applications for Refund filed by two applicants in the Atlantic Richfield Company special refund proceeding. Both applicants were reseller/retailers that applied for small claims refunds. In addition, each applicant documented the volume of its purchases from ARCO and, therefore, was presumed to have been injured and entitled to a refund. The DOE concluded that the applicants should receive refunds totalling $13,180, representing $10,000 in principal and $3,180 in accrued interest.

Beacon Oil Company/E.J. Brown, 9/8/89 RF238–1

The DOE issued a Decision and Order concerning an Application for Refund filed by E.J. Brown (Brown) in the Beacon Oil Company (Beacon) special refund proceeding. Brown requested a refund based on his purchases of both gasoline and diesel fuel as a Beacon reseller. Brown sold his resale outlet to R&R Enterprises (R&R) after the Beacon consent order period. Since Brown operated as a sole proprietor and sold only the assets of the business, the DOE determined that he was the proper recipient of the diesel fuel refund. However, Beacon had made direct refunds for the motor gasoline overcharges to R&R. The DOE found that under the terms of the Beacon Consent Order, R&R was the proper recipient of the motor gasoline refund. Thus, the basis of Brown's refund was limited to the documented amount of diesel fuel he purchased from Beacon

during the consent order period. Brown's representative, Energy Refunds, Inc., indicated that the firm wished to demonstrate that it was injured by the alleged overcharges in order to receive its full volumetric refund; however, despite numerous requests by the DOE for additional information necessary for an injury demonstration, that information was never submitted. As a result, Brown's refund was limited to $5,000 in principal under the small claims presumption or injury. In addition, Brown was awarded $6,783 in accrued interest.

Cal Kirkland, et al., 9/6/89 RF272–13523, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 62 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant documented its purchase volumes either by actual purchase records or by reasonable, conservative estimating procedures. Because each applicant was an end-user of the products purchased, it was presumed to have been injured. The sum of the refunds granted in this Decision is $32,085.

Carl Jaax, Jr., 9/7/89 RA272–12

The DOE issued a Supplemental Order adjusting the refund amount granted to Carl Jaax, Jr. (Jaax) in Glenwood C. Debolt, *et al.*, Case Nos. RF272–68006, *et al.*, (August 11, 1989). To correct its error, the DOE rescinded the earlier refund amount of $7 granted to Jaax and granted him the correct refund amount of $161.

Crown Central Petroleum Corporation/ J.L. Coward & Sons Oil Co., et al., 9/ 6/89 RF313–190, et al.

The DOE issued a Decision and Order considering applications filed by six purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount of refunds approved in this Decision was $25,083, representing $21,101 in principal plus $3,982 in accrued interest.

Crown Central Petroleum Corporation/ Roberts Oil Co., et al., 9/6/89 RF313–199, et al.

The DOE issued a Decision and Order considering applications filed by 14 purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. Each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The refund applications were granted using a presumption of injury procedure set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988). The total amount refunds approved in this Decision was $64,888, representing $54,573 in principal plus $10,315 in accrued interest.

D & H Distributing Company et al., 9/8/ 89 RF272–5319 et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to four applicants based on their purchases or refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant used the products for various activities. Each applicant determined its volume either by utilizing actual purchase records from the crude oil price control period or by estimating its petroleum consumption during that period. Each applicant was an end-user of the products it claimed and was therefore found injured based upon the end-user presumption of injury. The sum of the refunds granted in this Decision is $1,062.

Exxon Corporation/Bel Aire Exxon et al., 9/8/89 RF307–4643 et al.

The DOE issued a Decision and Order concerning 12 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $27,598 ($22,664 in principal and $4,934 in interest).

Exxon Corporation/Burkhart's Exxon Servicenter, 9/8/89 RF307–10055

The DOE issued a Supplemental Decision and Order in the Exxon Corporation special refund proceeding to Burkhart's Exxon Servicenter (Burkhart's), an applicant in *Exxon Corp./Elmer's Exxon*, Case Nos. RF307–2202 *et al.* (August 31, 1989). In that Decision, Burkhart's, Case No. RF307–7428, was granted a refund of $1,343 ($1,103 principal plus $240 interest) based on its purchases of Exxon refined petroleum products. However, Burkhart's had previously been granted a refund in the Exxon proceeding under the same case number and based upon the exact same purchase volume. Accordingly, the DOE rescinded the duplicate refund that was inadvertently granted to this claimant.

Exxon Corporation/D.H. Wing Exxon Dealer #6057 et al., 9/8.89 RF307–143 et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $7,746 ($6,361 principal plus $1,385 interest).

Exxon Corporation/Griffin's Exxon et al., 9/8/89, RF307–107 et al.

The DOE issued a Decision and Order concerning 19 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $20,586 ($16,906 principal plus $3,680 interest).

Exxon Corporation/Jones Exxon et al., 9/8/89, RF307–7200 et al.

The DOE issued a Decision and Order concerning 58 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $67,336 ($55,296 principal plus $12,040 interest).

Exxon Corporation/Mason's Exxon et al., 9/7/89, RF307–1118 et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon, and was supplied by a firm that either (i) did not apply for an Exxon refund, (ii) had been granted an Exxon refund under the small claims presumption of injury, or (iii) indicated in its Exxon refund application that it

did not intend to make a showing of injury. In accordance with prior Decisions, the claims of the applicants were therefore considered under the procedures used to evaluate direct purchase claims. EAch applicant was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $24,350 ($19,996 principal plus $4,354 interest).

Exxon Corporation/Pure Water & Gas Co., Inc., Service Petroleum Inc., 9/8/89, RF307–3078, RF307–3709

The DOE issued a Decision and Order concerning Applications for Refund filed by Pure Water & Gas Co. (Pure) and Service Petroleum Inc. (Service) in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a reseller whose allocable share exceeded $5,000. Neither of the applicants attempted to show that it was injured, but instead elected the medium range presumption of injury. Therefore, the DOE determined that each firm was eligible to receive either 40 percent of its allocable share of $5,000 whichever is greater. In this Decision, Pure was granted a refund of $6,042 ($5,000 in principal and $1,042 in interest). Service was granted a refund of $7,482 ($6,192 in principal and $1,290 in interest).

Exxon Corporation/State Gas and Oil Company, Bill Simms Fuel Oil Company, 9/8/89, RF307–3738, RF307–6294

The DOE issued a Decision and Order concerning Applications for Refund filed by State Gas and Oil Company (State) and Bill Simms Fuel Oil Company (Simms) in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was a reseller whose allocable share exceeded $5,000. Neither of the applicants attempted to show that it was injured, but instead elected the medium range presumption of injury. Therefore, the DOE determined that each firm was eligible to receive either 40 percent of its allocable share or $5,000 whichever is greater. In this Decision, Pure was granted a refund of $6,945 ($5,748 in principal and $1,197 in interest). Simms was granted a refund of $6,042 ($5,000 in principal and $1,042 in interest).

Exxon Corporation/Warren J. Peake, 9/8/89, RF307–10049

The Department of Energy issued a Supplemental Decision and Order to Warren J. Peake (Peake) in connection with a special refund proceeding under 10 CFR part 205, Subpart V, for distribution of a portion of the consent order funds obtained by the DOE through a settlement with Exxon Corporation. In *Exxon Corp./Buckner's Exxon*, the DOE granted Peak a refund of $153. In that Decision, the Exxon printout relied on to calculate Peake's refund was for Warren F. Peake of Kermit, West Virginia, and not the applicant, Warrent J. Peake of Wellsboro, Pennsylvania. Therefore the DOE rescinded the refund granted to Warren J. Peake in *Exxon Corp./Buckner's Exxon*.

Fehrle Trucking, et al., 9/6/89, RF272–38300, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 31 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $32,669. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Gulf Oil Corporation/J. Brame Witmer, Inc., et al., 9/7/89, RF300–5749, et al.

The DOE issued a Decision and Order concerning six Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision, including accrued interest, is $64,968.

McNall Farms, et al., 9/6/89, RF272–41004, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 22 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant was an end-user of the products it purchased and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $11,197. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Penokee Farmers Union Coop. Association, et al., 9/8/89, RF272–14386, et al.

The Office of Hearings and Appeals granted four Applications for Refund filed by four agricultural cooperatives in the Crude oil subpart V Refund Proceedings. The DOE determined that each was an end-user applying for refunds on behalf of its members and customers. Each applicant was required to certify that it will pass through to its member/customers the entire refund amount. The total volume for which refunds were approved in this Decision was 7,615,209 gallons and the sum of the refunds granted was $6,092.

Salt River Project, et al., 9/6/89, RF272–247, et al.

The DOE issued a Decision and Order granting Applications for Refund filed by Salt River Project and three other government-owned utilities in the Subpart V crude oil refund proceedings. Each applicant used refined petroleum products for electricity generation and related activities during the period August 19, 1973 through January 27, 1981. In addition to establishing its purchase volumes, each applicant provided certification that it would notify the appropriate regulatory bodies of any refund it receives and pass through the entirety of the refund to its customers. Each applicant was therefore eligible to receive its full volumetric share of available crude oil monies as an end-user and as an electric utility. The total of the refunds granted in this Decision and Order is $691,964.

Shell Oil Company/Harper 11 Mile Shell et al., 9/7/89, RF315–6000 et al.

The DOE issued a Decision and Order granting 132 Applications for Refund filed in the Shell Oil Company special refund proceeding. Each of the applicants purchased directly from Shell and was either a reseller whose allocable share was less than $5,000 or an end-user of Shell products. Accordingly, each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Shell escrow account. The sum of the refunds granted in the Decision was $113,429 ($95,689 principal plus $17,740 interest).

Sterling Construction Co., et al., 9/6/89, RF272–19836, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 43 claimants based on their purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each appicant determined the volume of its claim by consulting contemporaneous records or by using a reasonable estimation technique. Each applicant

was an end-user of the products it purchased and was therefore presumed injured. The refunds granted in this Decision totalled $69,299.

Crude Oil End-Users

The Office of Hearings and Appeals granted crude oil overcharge refunds to end-user applicants in the following Decisions and Orders:

Name	Case No.	Date	No. of applicants	Total refund
Pembroke Pines, *et al.*	RF272-68013	9/7/89	52	$30,092
Robert Griffin, *et al.*	RF272-38502	9/7/89	43	$11,454

Dismissals

The following submissions were dismissed:

Name	Case No.
Anacortes Carwash	RF304-5541
Bob's Exxon #2	RF307-9895
Braun Brothers, Inc	RF304-9261
Cal's Holiday Shell	RF315-94
Coopers Arco	RF304-4429
	RF304-4430
Cumberland Lake Shell, Inc	RF315-2111
	RF315-2112
Dick's Arco	RF304-9059
Gas City, Ltd.	RF304-7534
Hanford Education Action League	KFA-0302
Hardy Oil Company	RF304-6547
Johns Arco	RF304-5240
	RF304-5299
	RF304-5300
Kent Oil Co., Inc	RF304-8953
L.D. McReynolds, Inc.	RF304-7527
M&M Car Repair	RF307-2073
MacDougall Youth Center	RF307-7219
MacMillan Mobil Service	RF304-7579
	RF304-7602
Mark Concepts, Inc	RF304-7563
McCall Oil & Chemical Company	RF304-7529
Metropolital Trucking Liquidating Trust.	RF272-31814
Phillips Fuel	RF304-5332
State Oil Co	RF304-7514
Vern's Arco Service	RF304-8799
W.D. Young Oil & Supply Co	RF304-7209
Wallace Transport Inc	RF304-5336
	RF304-5337

Copies of the full test of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: October 31, 1989.

George E. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-26484 Filed 11-8-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3679-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instruments.

DATE: Comments must be submitted on or before December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Notification of Regulated Hazardous Waste Activity (EPA ICR #261.07). This is a renewal.

Abstract: Any person generating, transporting, and/or operating a facility for storage, treatment, or disposal of hazardous waste must file a notification form with EPA (or an authorized State). The information requested includes the location and general description of hazardous waste activity. EPA uses the information for a variety of inspection, enforcement, and tracking purposes.

Burden Statement: The estimated average public reporting burden for this collection of information is about 3.5 hours per respondent. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering data, and preparing and submitting the form to EPA.

Respondents: Anyone generating, transporting, or handling hazardous waste for storage, treatment or disposal.

Estimated No. of Respondents: 15,000.

Estimated Total Annual burden of Respondents: 42,450 hours.

Frequency of Collection: as necessary.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 1284.02; New Source Performance Standards for Polymeric Coating of Supporting Substrates; was approved 09/06/89; OMB # 2060-0181; expires 09/30/92.

EPA ICR # 1276.02; Reporting and Recordkeeping for Asbestos Ban and Phase-Out Rule; was approved 09/08/89; OMB # 2070-0082; expires 09/30/92.

EPA ICR # 1390.01; State Revolving Fund Report to Congress Questionnaire; was approved 09/01/89; OMB # 2040-0131; expires 10/31/90.

EPA ICR # 1080.05; National Emission Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage vessels; was approved 09/07/89; OMB # 2060-0185; expires 12/31/89.

EPA ICR # 0788.03; Hazardous Substance Response Fund Contractor Cost Report; was approved 10/03/89; OMB # 2030-0019; expires 12/31/89.

EPA ICR # 1164.03; NSPS for Fluid Catalytic Cracking Unit Regenerators; was approved 09/28/89; OMB # 2060-0061; expires 09/30/92.

EPA ICR # 1069.03; NSPS Subpart N, NA—Standards of Performance for Iron and Steel Plants (Basic Oxygen Process Furnaces); was approved 09/28/89; OMB # 2060–0029; expires 09/30/92.

EPA ICR # 1502.02; Collection of Asbestos in Buildings Information Through Supplemental Energy Information Administration Form EIA—871H; was approved 10/02/89; OMB # 2070–0104; expires 11/30/89.

EPA ICR # 0795.04; Section 12(B) Notification of Chemical Exports; was approved 09/21/89; OMB # 2070–0030; expires 09/30/90.

EPA ICR # 0619.04; Mobile Source Emission Factor Survey; was approved 09/26/89; OMB # 2060–0078; expires 09/30/90.

EPA ICR # 1293.02; Development of NSPS for Small Boilers; was disapproved 09/21/89.

Dated: October 27, 1989.

Paul Lapsley, Director,

Information and Regulatory Systems Division.

[FR Doc. 89–26439 Filed 11–8–89; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3679–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5076 or (202) 382–5073.

Availability of Environmental Impact Statements filed October 30, 1989 through November 3, 1989, pursuant to 40 CFR 1506.9.

EIS No. 890305, Draft, COE, KY, IN, McAlpine Locks and Dams Navigation Improvement, Implementation, Ohio River, Jefferson and Oldham Counties, KY and Floyd and Clark Counties IN, Due: December 26, 1989, Contact: Col. David Peixotto, (502) 582–5601.

EIS No. 890306, Final, BLM, CA, Arcata Planning Area, Land and Resource Management Plan, Implementation, Humboldt, Mendocino, Trinity and Sonoma Counties, CA, Due: December 11, 1989, Contact: John T. Lloyd, (707) 822–7648.

EIS No. 890307, FSuppl, FHW, NY, Southern Tier Expressway Construction, Corning Area, NY–415 to NY–352, Funding, Steuben County, NY, Due: December 11, 1989, Contact: Harold Brown, (518) 472–3616.

EIS No. 890308, Final, AFS, ID, Idaho Panhandle National Forests, Weed Pest Management Plan, Implementation, Benewah, Bonner, Boundary, Kootenai and Shoshone Counties, ID, Due: December 11, 1989, Contact: Patricia Jackman, (208) 447–4710.

EIS No. 890309, Draft, NOA, HI, FL, Swin-With-The-Dolphin Programs, Use of Marine Mammals, Implementation, Due: December 28, 1989, Contact: Dr. Nancy Forester, (301) 427–2333.

EIS No. 890310, Draft, AFS, UT, Snowbasin Four Season Destination Resort, Development, Wasatch-Cache National Forest, Weber and Morgan Counties, UT, Due: December 29, 1989, Contact: Glenn Casamassa, (801) 625–5112.

EIS No. 890311, Final, IBR, AZ, San Xavier Irrigation System Development Project, Design Approval, Construction and Operation, Funding, Tohono O'odham Nation, San Xavier District, AZ, Due: December 11, 1989, Contact: W.E. Rinne, (702) 293–8560.

EIS No. 890312, Final, AFS, WA, OR, Pacific Northwest Region National Forests, Nursery Pest Management Control Plan, Implementation, Skamania County, WA and Lane, Douglas, Deschutes and Jackson Counties, OR, Due: December 11, 1989, Contact: George P. Matejko, (503) 326–7755.

EIS No. 890313, Final, DOE, PRO, Clean Coal Technology Program, Continuation, Due: December 11, 1989, Contact: Allyn Hemenway, (202) 586–7162.

EIS No. 890314, Draft, BLM, OR, Three Rivers Resource Management Plan, Implementation, Malheur, Harney, Grant, Crook, and Lake Counties, OR, Due: February 1, 1990, Contact: Jay Carlson, (503) 573–5241.

Dated: November 6, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89–26481 Filed 11–8–89; 8:45 am]

BILLING CODE 6560–50–M

(ER–FRL–3679–4)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 23, 1989 through October 27, 1989 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 7, 1989 (54 FR 15006).

Draft EISs

ERP No. D–FRC–LO5197–OR, Rating EO2, Salt Caves 80 MW Hydroelectric Project No. 10199, Construction and Operation, License, Klamath River, Klamath County, OR.

Summary: EPA has concerns about the proposed project, even with the recommended mitigation, with regard to water quality, wetland and aquatic resources and the uncertainties associated with the no-dam alternatives.

ERP No. D–UMC–E11022–NC, Rating EC2, Camp Lejeune Marine Corps Base Camp, Expansion and Realignment for Additional Training Needs, Implementation, Onslow County, NC.

Summary: EPA has environmental concerns about the absence of definitive mitigation for the adverse consequences of the acquisition and use by the Marine Corps of the proposed Lejeune training area. Additionally, the document is noncommittal as to exactly how the training range will be operated and maintained to reduce chronic environmental impacts associated with the ongoing military activities conducted there. EPA believes that the final EIS would be improved and the decision-making process facilitated if these issues were addressed during the NEPA process rather than later.

Final EISs

ERP No. F–BOP–E40722–SC, Estill Minimum Security Federal Prison Camp, Construction and Operation, Estill, Hampton County, SC.

Summary: EPA does not have any significant environmental concerns associated with construction of the proposed facility. However, a stormwater runoff plan should be prepared to ensure no adverse impacts to wetlands on and off the site.

Regulations

ERP No. R–DOE–A09097–00, 10 CFR part 430; Energy Conservation Program for Consumer Products: Standards for Three Types of Consumer Products (54 FR 32744).

Summary: EPA recommends more stringent conservation standards for dishwashers, clothes washers, and clothes dryers. More stringent standards would avoid environmental impacts and save energy, water and money for consumers.

ERP No. R–MMS–A02230–00, 30 CFR part 250; Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), all OCS Regions (54 FR 36244).

Summary: Review of the proposed rule has been completed and the project found to be satisfactory.

Dated: November 6, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-26482 Filed 11-8-89; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140119; FRL-3660-7]

Access to Confidential Business Information by Syracuse Research Corporation and Midwest Research Institute

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractors, Syracuse Research Corporation (SRC) of Syracuse, New York, for access to information which has been submitted to EPA under sections 4 and 8, and Midwest Research Institute (MRI) of Cary, North Carolina, for access to information which has been submitted to EPA under sections 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D9-0059, contractor SRC, of Merrill Lane, Syracuse, NY, will assist the TSCA Interagency Testing Committee in preparing semi-annual reports on health and environmental test data for existing chemicals as set forth in section 4(e) of TSCA.

Under contract number 68-02-3817, contractor MRI, of 401 Harrison Oaks Boulevard, Suite 350, Cary, NC will assist the Office of Air Quality Planning and Standards in developing air pollution emission standards for chromium air pollutants under the authority of section 6 of TSCA.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract numbers 68-D9-0059 (SRC) and 68-02-3817 (MRI), these contractors will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the contract. SRC personnel will be given access to information submitted under sections 4 and 8 of TSCA. MRI personnel will be given access to information submitted under sections 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4 and 8 of TSCA that EPA may provide SRC access to these CBI materials on a need-to-know basis. Also, EPA is issuing this notice to inform all submitters of information under sections 5, 6, and 8 of TSCA that EPA may provide MRI access to these CBI materials on a need-to-know basis. All access to TSCA CBI under these contracts will take place at either EPA Headquarters or contractor facilities.

Clearance for access to TSCA CBI under these contracts are scheduled to expire on March 21, 1992 (SRC) and April 30, 1992 (MRI).

SRC and MRI are currently authorized for access to TSCA CBI at their facilities under contract nos. 68-D9-0117 (SRC) and 68-02-4252 (MRI).

SRC and MRI personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: November 1, 1989.

John Neyland,

Director, Information Management Division.

[FR Doc 89-26446 Filed 11-8-89; 8:45]

BILLING CODE 6560-50-D

[OPTS-59878; FRL-3665-6]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 14 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 90-2, October 24, 1989.
Y 90-3, October 25, 1989.
Y 90-4, 90-5, October 31, 1989.
Y 90-7, 90-8, November 5, 1989.
Y 90-9, 90-10, November 8, 1989.
Y 90-11, 90-12, November 12, 1989.
Y 90-13, November 13, 1989.
Y 90-14, November 15, 1989.
Y 90-15, November 21, 1989.
Y 90-16, November 20, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M Street, SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 90-2

Manufacturer. Confidential.

Chemical. (G) Flexible unsaturated polyester polymer.

Use/Production. (S) Clear gel coat.

Prod. range: 115,000-230,000 kg/yr.

Y 90-3

Manufacturer. Allied-Signal, Inc.

Chemical. (G) Olefin-carboxylic acid copolymer.

Use/Production.(S) Used in emsulsion for polishes, inks, and coatings.

Prod. range: Confidential.

Y 90-4

Importer. Confidential.

Chemical. (G) Polyester-graft-styrene-acrylic copolymer.

Use/Import. (G) Pigment binder resin.

Prod. range: Confidential.

Y 90-5

Importer. Confidential.

Chemical. (G) Styrene-N-butylacrylate-maleic acid monobutyl ester.

Use/Import. (G) Open, nondispersive use.

*Import range:*Confidential.

Y 90-7

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Paint vehicle.

Prod. range: Confidential.

Y 90-8

Manufacturer. Confidential.

Chemical. (G) Rosin-modified phenolic resin.

Use/Production. (S) The function is a binder and theapplication is in lithographic printing inks.

Prod.range: Confidential.

Y 90-9

Manufacturer. Confidential.

Chemical. (G) Caprolaction, polyester.

Use/Production. (S) Component of molding and modeling compounds.

Prod. range: Confidential.

Y 90-10

Importer. Confidential.

Chemical. (G) Polyamide copolymer.

Use/Import. (S) Hot melt salt adhesive.

*Import range:*Confidential.

Y 90-11

Manufacturer. Confidential.

Chemical. (G) Partial sodium salt of an acrylic polymer.

Use/Production. (S) A dispersant for boiler feedwater treatment.

Prod. range: Confidential.

Y 90-12

Importer. Confidential.

Chemical. (G) Hydroxy functional acrylic resin.

Use/Import. (S) Coatings.

Import range: Confidential.

Y 90-13

Manufacturer. Confidential.

Chemical. (G) Acrylic dispersion.

Use/Production. (S) Protective coatings.

Prod. range: 90,000-10,000 kg/yr.

Y 90-14

Manufacturer. Confidential.

Chemical. (G) Rosin maleated polymer with P-ter-buty phenol,formaldehyde and pentaehyt.

Use/Production. (S) Printing vehicle.

Prod. range: 22,000-30,000 kg/yr.

Y 90-15

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyether urethane.

Use/Production. (G) Used in coatings applied industrial manufactures.

Prod. range: Confidential.

Y 90-16

Manufacturer. Estro Chemical, Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Flow control agent for industrial coatings.

Prod. range: 80,000-250,000 kg/yr.

Dated: November 3, 1989.

Gerhard E. Brown,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-26444, Filed 11-8-89; 8:45 am]

BILLING CODE 6560-50-D

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Science and Technology Policy

National Advisory Committee on Semiconductors (NACS); Meeting

The purpose of the National Advisory Committee on Semiconductors, is to devise and promulgate a national semiconductor strategy, including research and development. The implementation of this strategy will assure the continued leadership of the United States in semiconductor technology. The Committee will meet on November 20, 1989 at Science Applications International Corporation, 1555 Wilson Blvd., 7th Floor, Rosslyn, Virginia 8:00 a.m. The proposed agenda is:

(1) Briefing of the Committee on its organization and administration.

(2) Briefing of the Committee by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed studies regarding semiconductors.

(3) Discussion of composition of panels to conduct studies.

A portion of the November 20 sessions will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b.(c) (1), (2), and (9)(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b.(c)(6).

Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Hazel Houston, at (703) 528-6288, prior to 3:00 p.m. on November 17, 1989. Mrs. Houston is also available to provide specific information regarding time, place and agenda for the open session.

Dated: November 6, 1989.

Barbara J. Diering,

Special Assistant, Office of Science and Technology Policy.

[FR Doc. 89-26549 Filed 11-7-89; 10:50 am]

BILLING CODE 3115-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 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.: 224-010642-005

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland (Port)
Stevedoring Services of America (SSA)

Synopsis: The Agreement amends the basic agreement (Agreement No. 224-010642) to provide for the extension of the agreement's term to January 31, 1990 and for an increase in the basic compensation for SSA to 10% of the gross wharfage and terminal tariff revenues which accrue for users of the assigned premises without application of any breakpoint levels or additional compensation to SAA for tonnage exceeding breakpoint levels.

Agreement No.: 224-000084-001

Title: Pacific Maritime Association Assessment Agreement.

Parties:

Pacific Maritime Association
International Longshoremen's and Warehousemen's Union

Synopsis: The Agreement amends the basic agreement to provide for: Reporting of coastwise cargo tonnage in five categories and factors to be applied to per ton assessment rates to determine rates applicable to categories of cargo moving as coastwise cargo.

Agreement No.: 224-200300

Title: Indiana Port Commission Terminal Agreement.

Parties:

Indiana Port Commission
Jack Gray Transport, Inc. (JGTI)

Synopsis: The Agreement provides JGTI with the lease of 3.78 acres at the Port of Indiana/Burns International Harbor to be used for the operation of a dry-bulk storage warehouse facility and the related transportation and handling of dry-bulk materials. The term of the Agreement expires July 31, 1994, and may be extended for three consecutive five-year periods.

Agreement No.: 224-200299

Title: Indiana Port Commission Terminal Agreement.

Parties:

Indiana Port Commission
Jack Gray Transport, Inc. (JGTI)

Synopsis: The Agreement provides JGTI with the lease of Transit Shed #2 and preferential use of Berths #12 and #13 in the Port of Indiana/Burns International Harbor to be used for the operation of an intermodal marine terminal and warehouse. The Agreement's term expires July 31, 1991.

By Order of the Federal Maritime Commission.

Dated: November 3, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26388 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L. Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200301

Title: Port Authority of New York and New Jersey Terminal Agreement.

Parties:

Port Authority of New York and New Jersey
Maher Terminals, Inc. (Maher)

Synopsis: The Agreement provides Maher the lease of premises at the Elizabeth—Port Authority Marine Terminal to be used and operated as a public marine terminal for the berthing of vessels, the loading and unloading of cargo and passengers, the storing of cargo and containers, and related terminal activities. Maher has the exclusive right to collect dockage and wharf usage charges subject to the Agreement's terms.

Agreement No.: 224-004161-006

Title: San Francisco Port Commission Terminal Agreement.

Parties:

San Francisco Port Commission
Marine Terminals

Synopsis: The Agreement extends the term of the basic agreement, Agreement No. 224-004161, a non-exclusive management agreement, for two months from November 1, 1989 through December 31, 1989.

By Order of the Federal Maritime Commission.

Dated: November 3, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26384 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 224-000086-004]

Port of Greater New York and New Jersey Assessment Agreement; Erratum

The **Federal Register** Notice published on October 13, 1989, (Vol. 54, No. 17, FR 42037), incorrectly identified the Port of Greater New York and New Jersey Assessment Agreement as Agreement No. 224-000086-003, whereas, it should have been noticed as Agreement No. 224-000086-004.

By Order of the Federal Maritime Commission.

Dated: November 3, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26387 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-19]

Service Contracts; Automatic Discount Provisions Petition for Declaratory Order or Rulemaking; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Special Studies has determined that Docket No. 89-19 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 et seq., and that preparation of an environmental impact statement is not required.

In Docket No. 89-19, the Commission, in response to a petition from Associated Container Transportation (Australia) Ltd. (ACTA) and Hamburg-Sudamericanische Dampfschiefffahrts-Gesellschaft Eggert & Amsinck (Columbus) pursuant to 46 CFR 51, 68, will decide whether or not to issue a declaratory order, or in the alternative a rulemaking, determining that a service contract may not contain an automatic discount provision, under which a service contract rate would be automatically discounted below the lowest rate specified in the tariffs and service contracts filed by other carriers in a trade.

This Finding of No Significant Impact ("FONSI") will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 504.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, DC 20573-0001, telephone (202) 523-5725.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-26416 Filed 11-8-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

[Docket No. C-3259]

Medical Staff of Dickinson County Memorial Hospital, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, 12 doctors, the medical staff and two medical societies of Michigan from combining or conspiring to coerce, intimidate, threaten to boycott or boycott other physicians, hospitals and

health care providers. In addition, the order requires the respondent Medical Staff to mail a copy of the complaint and order to certain medical officials.

DATE: Complaint and Order issued July 17, 1989.[1]

FOR FURTHER INFORMATION CONTACT: David Pender or Paul Nolan, FTC/S-3115, Washington, DC 20580 (202) 326-2549 or 326-2770.

SUPPLEMENTARY INFORMATION: On Tuesday, February 28, 1989, there was published in the Federal Register, 54 FR 8345, a proposed consent agreement with analysis In the Matter of Medical Staff of Dickinson County Memorial Hospital, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of a complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 89-26425 Filed 11-8-89; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3260]

Panhandle Eastern Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order allows, among other things, the respondent to acquire Texas Eastern Transmission Corp. The order requires respondent to divest its ownership of Truckline Offshore Co. and, for ten years, to obtain FTC approval before acquiring any natural gas pipelines in the affected offshore area.

DATE: Complaint and Order issued July 17, 1989.[1]

FOR FURTHER INFORMATION CONTACT: Anthony L. Joseph, FTC/S-3308, Washington, DC 20580 (202) 326-2910.

SUPPLEMENTARY INFORMATION: On Tuesday, May 9, 1989, there was published in the Federal Register, 54 FR 19915, a proposed consent agreement with analysis In the Matter of Panhandle Eastern Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of a complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered an order to cease and desist in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 89-26426 Filed 11-8-89; 8:45 am]

BILLING CODE 6750-01-M

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Risk Assessment; Meeting Cancellation

The Centers for Disease Control (CDC) is cancelling the meeting of the CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Risk Assessment scheduled for November 27, 1989. The meeting was announced by notice in the Federal Register of October 26, 1989 (54 FR 43619).

FOR FURTHER INFORMATION CONTACT: Linda Gimmestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-24, Atlanta, Georgia 30333, telephones: FTS 236-0915; Commercial: 404/639-0915.

Dated: November 3, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-26394 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-18-M

CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Prevention: Meeting; Cancellation

The Centers for Disease Control (CDC) is cancelling the meeting of the CDC Advisory Committee on the Prevention of HIV Infection Subcommittee on Prevention scheduled for November 27, 1989. The meeting was announced by notice in the Federal Register of October 26, 1989 (54 FR 43619).

FOR FURTHER INFORMATION CONTACT: Linda Gimmestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-24, Atlanta, Georgia 30333, telephones: FTS: 236-0915; Commercial: 404/639-0915.

Dated: November 3, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-26395 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-18-M

CDC Advisory Committee on the Prevention of HIV Infection; Meeting—Notice of Change

The Centers for Disease Control (CDC) is making the following changes in the meeting of the CDC Advisory Committee on the Prevention of HIV Infection announced by notice in the Federal Register of October 26, 1989 (54 FR 43619).

Previously Announced Times and Dates:

9 a.m.-5 p.m.—November 28, 1989
9 a.m.-3 p.m.—November 29, 1989

Change in Times and Dates:

1:00 p.m.-5 p.m.—November 27, 1989
8:30 a.m.-5 p.m.—November 28, 1989
8:30 a.m.-5 p.m.—November 29, 1989

Matters to be Discussed: This section is changed to read as follows: The Committee will discuss issues, questions, and concerns raised during the Committee's meeting on June 26-27, 1989, and current CDC approaches in the areas of risk assessment, technology development and transfer, prevention, and capacity building. In-depth discussion will lead to development of a preliminary list of recommendations regarding CDC methods and approaches.

FOR FURTHER INFORMATION CONTACT: Linda Gimmestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road, NE., Mailstop E-24, Atlanta, Georgia 30333, telephones: FTS: 236-0915; Commercial: 404/639-0915.

Dated: November 3, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-26396 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89F-0442]

Alex C. Fergusson Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a food additive petition has been filed by Alex C. Fergusson Co., proposing that the food additive regulations be amended to provide for the safe use of a solution containing *n*-alkyl(C_{12}-C_{18}) benzyldimethylammonium chloride, *alpha*[*p*-(1, 1, 3, 3-tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) produced with one mole of the phenol and 4 to 14 moles of ethylene oxide, and ethanol as a sanitizer on food-processing equipment and utensils.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmestic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8H4099) has been filed by Alex C. Fergusson Co., Spring Mill Dr., Frazer, PA 19355, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended to provide for the safe use of a solution containing *n*-alkyl (C_{12}-C_{18}) benzyldimethylammonium chloride, *alpha*[*p*-(1, 1, 3, 3-tertramethylbutyl) phenyl]-*omega*-hydroxypoly (oxyethylene) produced with one mole of the phenol and 4 to 14 moles of ethylene oxide, and ethanol as a sanitizer on food-processing equipment and utensils.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 2, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26410 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88F-0429]

Food Techniques, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 9A4119) proposing that the food additive regulations be amended to provide for the safe use of ozone as an antimicrobial agent in poultry chiller water for reuse.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 10, 1989 (54 FR 6451), FDA published a notice that it had filed a petition (FAP 9A4119) submitted by Food Techniques, Inc., 267-A Hayes Mille Rd., Atco, NJ 08004, that proposed to amend the food additive regulations to provide for the safe use of ozone as an antimicrobial agent in poultry chiller water for reuse. Food Techniques, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: November 2, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26411 Filed 11-8-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Systems of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of proposed modification to the "End Stage Renal Disease (ESRD) Program Management and Medical Information System (Registry)."

SUMMARY: HCFA is proposing to modify the notice of system of records to update and clarify a number of sections. The modifications being proposed for this system include:

- The name of the system is being changed to "End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS)."
- The category of individuals is being revised to reflect ESRD patients treated by the Department of Veterans' Affairs (DVA) health care facilities.
- The retrievability section is being revised to include DVA personal identification numbers.

The above changes clarify and update the system notice to include recent statutory requirements. In addition, the safeguard section is being expanded to include security-related contracts and current source documents for systems security policies.

EFFECTIVE DATES: This proposed modification will be effective on November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Helen Mayhew, Office of Statistics and Data Management, Bureau of Management and Strategy, 3-A-12 Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 597-3673.

SUPPLEMENTARY INFORMATION: The Notice for the "End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS)", No. 09-70-0520, was most recently published in the **Federal Register** on December 29, 1988, 53 FR 62792.

This system contains records on persons with ESRD who receive Medicare benefits or who are treated by DVA health care facilities. Data in this system are used primarily to meet and implement statutory requirements of Section 299I, Public Law 92-603, to meet other legislative requirements, and to support ESRD research and public service programs.

The Omnibus Reconciliation Act of 1986 (P.L. 99-509) required that the Secretary establish a national ESRD registry. This registry is called the United States Renal Data System (USRDS). The contract to administer the USRDS was awarded by the National Institutes of Health (NIH) to the Urban Institute on May 1, 1988, for a 5-year period. This registry will utilize data reported by network organizations, transplant centers, and other sources to support: Analysis of alternative treatment modes; evaluation of allocation of resources; analyses or mortality and morbidity trends and other quality of care indices; and other studies that will assist the Congress in evaluating the ESRD program.

Information on patients treated at DVA health care facilities is being added to this system of records in order to increase the proportion of individuals with ESRD on whom information is included in the file and to augment the usefulness of the information for research and policy formulation. This information is being added in response to a request from the National Institute of Diabetes and Digestive and Kidney Diseases that data on DVA patients with ESRD be included in the PMMIS for research purposes. A code will be present in the PMMIS to provide the capability to separately identify the Medicare beneficiaries and the DVA patients.

Because this modification will not change the purpose for which the information is to be used or otherwise significantly alter the system, no report of an altered system of records is required under 5 U.S.C. 551a(o). We are publishing the notice in its entirety below for the convenience of the reader.

Date: November 3, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

09-70-0520

SYSTEM NAME:

End Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS), HHS, HCFA, BDMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

HCFA Data Center, Lyon Building, 7131 Rutherford Road, Baltimore, Maryland 21207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons with ESRD who receive Medicare benefits or ESRD patients who are treated by Department of Veterans Affairs (DVA) health care facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes records on beneficiaries/patients and on providers of service.

Beneficiary/patient records include personal, medical, and payment data taken from several nonreimbursement data collection instruments and from Medicare bills. These records include individual identifiers; demographic and enrollment data; and dialysis, kidney transplant, and death information.

The provider of service records include the provider's name and address; the Medicare identification number (or PMMIS identification in the case of DVA health care facilities); types of renal services available; certification and/or termination date; the Medicare fiscal intermediary; and the ESRD network number.

Annual ESRD aggregate patient treatment survey data are included for both Medicare and DVA health care facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 226A, 1875, and 1881 of the Social Security Act (42 U.S.C. 426-1, 139511, and 1395rr.).

PURPOSE OF THE SYSTEM:

To meet and implement statutory requirements of Section 299I, Public Law 92-603, which extended Medicare coverage to eligible persons with ESRD; Public Law 95-292, which required the establishment of a medical information system on the ESRD program; Public Law 99-509, which mandated a national ESRD patient registry; to support State and local ESRD programs and legislative requirements; and to support ESRD research and public service programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to:

1. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

2. Organizations deemed qualified by the Health Care Financing Administration to carry out quality assessment, and/or medical audits of utilization review.

3. The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

a. HHS, or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components;

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. An individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the research purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual, or

(b) For use in another research project, under these same conditions, and with written authorization of HCFA, or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the recipient's understanding of and willingness to abide by these provisions.

5. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system or for developing, modifying and/or manipulating ADP software. Data would also be disclosed to the contractor incidental to

consultation, programming, operation, user assistance,or maintenance, for ADP or telecommunications systems containing or supporting records in the system.

6. To an agency of a State Government, or established by State law, for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the State, if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

b. Establishes that the data are exempt from disclosure under the State and/or local Freedom of Information Act;

c. Determines that the purpose for which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the data are provided individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual(s) that additional exposure of the record might bring, and;

(3) There is reasonable probability that the objective for the use would be accomplished; and

d. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the request, unless the recipient presents an adequate justification for retaining such information;

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another project under the same conditions, and with written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the project, if information that would enable project subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law; and

(4) Secure a written statement attesting to the recipient's understanding of and willingness to abide by these provisions. The recipient must agree to the following:

(a) Not to use the data for purposes that are not related to the evaluation of cost, quality, and effectiveness of care;

(b) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that beneficiaries could be identified (i.e., the data must not be beneficiary-specific and must be aggregated to a level when no data cells have ten or fewer beneficiaries); and

(c) To submit a copy of any aggregation of the data intended for publication to HCFA for approval prior to publication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic medium and selected hard copy backup.

RETRIEVABILITY:

Data may be retrieved from beneficiary records by health insurance claim number (HIC) or the DVA identification number, or by individual name; and from the provider of service records by Medicare identification number or, for DVA health care facilities, the PMMIS facility identification number.

SAFEGUARDS:

Employees who maintain records in this system will be instructed to grant access only to authorized users. Data stored in computers will be accessed through the use of passwords, keywords, numbers, or some combination thereof known only to the authorized personnel. These passwords, keywords, or numbers will be changed in accordance with HCFA systems security guidelines.

Privacy Act requirements will be specifically included in contracts related to this system. The project officer and contract officer will oversee compliance with these requirements. The particular safeguards implemented will be developed in accordance with the HHS, Information Resource Manual (IRM), Part 6, "Systems Security Policies" (i.e., use of passwords), and the National Bureau of Standards Federal Information Processing Standards.

RETENTION AND DISPOSAL:

Hard copy is destroyed after 1 year by shredding. All other information is maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Bureau of Data Management and Strategy, Health Care Financing Administration, Room 126, Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

An individual requesting notice as to whether the system of records contains information pertaining to him/her should write to the System Manager, at the above address, indicating his/her full name, current address (including ZIP CODE), and health insurance claim number or DVA identification number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should reasonably specify the record contents being sought. (These procedures are in accordance with HHS Regulations (45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Records, or information in records, may be contested by writing to the System Manager named above and reasonably identifying the record, specifying the information to be contested, and stating the reason for contesting the record (e.g., it is inaccurate, irrelevant, incomplete, or not current). (These procedures are in accordance with HHS Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained from Medicare ESRD medical evidence reports, kidney transplant reports, ESRD beneficiary reimbursement method selection forms, ESRD death notification forms, Medicare bills, HCFA Medicare Master Files, ESRD facility surveys, ESRD facility certification notices, and the Medicare/Medicaid Automated Certification System (MMACS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 89-26409 Filed 11-8-89; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-89-1917; FR-2606-N-45]

Notice of Underutilized and Unutilized Federal Buildings and Real Property Determined by HUD To Be Suitable for Use for Facilities To Assist Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD

ACTION: Notice.

SUMMARY: This notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: November 9, 1989.

ADDRESS: For further information, contact James Forsberg, Room 7228, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 755-6300; TDD number for the hearing- and speech-impaired (202) 755-5965. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Finally, in lieu of declaring any particular property as excess, the landholding agency may decide to make the property available to the homeless for use on an interim basis.

Homeless assistance providers interested in any property identified as suitable in this Notice should sent a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, Room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: James Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405 (202) 535-7067.

Date: November 3, 1989.

Stephen A. Glaude,

Deputy Assistant Secretary for Program Management.

Suitable Building (by State)
(Number of Properties [ ])
ARKANSAS
Hot Springs National Park [5]
see below
Hot Springs, AR
Landholding Agency: GSA
Location:
7-I-AR-415-U (excess)
108 Earhart; 215 Congress; 820 Music Mountain Road; 321 Terryland Drive;
101 Hutson Drive
Comment: must move off-site; 1 story houses; 744 to 2,399 sq ft

[FR Doc. 89-26386 Filed 11-8-89; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Titles: Reindeer Industry Management.

OMB Approval Number: 1076-0047.

Abstract: The information allows the Bureau to maintain records of individuals who wish to borrow reindeer from the Government for the purpose of starting a reindeer industry, determine the specific age and sex of reindeer borrowed, and to insure their proper return to the Federal Government in order that they may be held in trust for Alaska Natives.

Bureau Form Number: JO-NR-3 and JAO-1668.

Frequency: On occasion.

Description of Respondents: Individuals and tribal corporations.

Estimated Completion Time: Average of 45 minutes.

Annual Responses: 20 (each form).

Annual Burden Hours: 30 (total for both forms).

Bureau Clearance Officer: Cathie Martin, (202) 343-3577.

Walter R. Mills,

Deputy to the Assistant Secretary, Indian Affairs (Operations).

[FR Doc. 89-26458 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-02-M

Proposed Finding Against Federal Acknowledgment of the Mohegan Tribe of Indians of the State of Connecticut

October 30, 1989.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f) (formerly 25 CFR 54.9(f)), notice is hereby given that the Assistant Secretary proposes to decline to acknowledge that The Mohegan Tribe of Indians of the State of Connecticut, c/o Mr. Courtland Fowler, 1841 Norwich, New London Turnpike, Uncasville, Connecticut 06382, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet two of the mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

The Mohegan Tribe of Indians is based in the village of Mohegan, in the Town of Montville, Connecticut, on land which was traditionally and aboriginally Mohegan. This organization represents a group of lineal descendants of the Mohegan Indians whose ancestors have inhabited this area since first sustained contact with European settlers in 1638. The Mohegans have been identified as being American Indians from historical times until the present, and distinct from other Indian groups in Connecticut, although at the present they do not appear to be distinct socially from the non-Indian population. Since the early part of the 20th century, a substantial portion of the Mohegan Indian descendants have not resided within the historical Indian settlement, and at present only about 9 percent of the group's 1,032 members reside in or near the village of Mohegan. Since the 1940's, the Mohegan Indians have not maintained group interaction or social relations, either within the historical Indian settlement or between those residents in or near the village of Mohegan and the ever-growing number of non-resident Mohegan Indian descendants.

Until the early 1940's, the Mohegan maintained a cohesive, albeit continually declining, Indian community on an ever-dwindling land base, as its resident population was gradually surrounded and interspersed by non-Indian settlers. The 20,000-acre tract of aboriginal land sequestered by Connecticut officials for the use of the Mohegan in 1671 was reduced to just 2,600 acres by 1790 when the first land division among tribal members was made. The tribal lands were again divided in 1861 and tribal members were given title in 1872. The Mohegan as a group and some of its individual members continue to hold title to small parcels of their historic land base.

A Wigwam festival, which served as both a fund-raising fair to benefit the Mohegan church and a Mohegan homecoming in which non-resident Mohegans returned annually to participate, was held on the church grounds almost every year between 1860 and 1927. The Wigwam festival began to decline in the late 1920's. References have been found for only three such community events between 1927 and 1941, when the last successful Wigwam was held.

There is not enough documentary evidence regarding group activities following the cessation of the Wigwam festivals in 1941 to conclude that the petitioning group has maintained a cohesive community within which social interaction took place since that time. The available documentation shows that since 1941, the Mohegan have had few, if any, community events or political meetings of a tribal nature. No evidence was submitted or found regarding other internal events which might have served to bring a substantial number of group members together. There was no evidence of sustained social interaction between the families represented by the current membership. The only current social activity which brings different families together is an annual homecoming which was not started until the late 1970's.

Aboriginal Mohegan leadership was provided by a chief sachem who made decisions in consultation with a council consisting of influential tribal members of similar social rank. The sachem and council form of government was continued until 1769, when the Mohegan abandoned the leadership position of sachem. There is evidence that the Mohegan continued to govern their affairs through some form of council in the years between 1769 and 1903.

The formal position of "chief" was first described in 1903, and various Mohegan men have been identified as chiefs since then. From that time to the mid to late 1930's, the Mohegan made intermittent efforts to maintain some kind of tribal political organization under various leaders and various organizational names. The continuance of the Wigwam festivals to 1941 indicates that some level of group organization and decision making persisted.

There is no documentary evidence of any effort to maintain a functioning tribal governing body and little evidence of individual political leadership between the early 1940's and 1967. A similar documentary gap exists for the period between 1970 and 1979. The Council of the Descendants of the Mohegan Indians, Inc., formed in 1967, attempted to function as a tribal council for the Mohegan. Not enough is known about the Council of the Descendants to measure its level of influence over or support from the Mohegan group. Evidently, it did not generate enough interest to continue for more than a three-year period (1967–1970).

There is no evidence of any other tribal governing body or other political process between 1941 and 1980. Since 1980, the group has had a formal tribal council and a governing document. However, the available evidence is not sufficient to determine the extent of the Tribal Council's political influence or other authority over its membership.

The group's governing document describes how membership is determined and how the group governs its affairs and its members. Approximately 85 percent of the 1,032 members can demonstrate that they meet the group's membership requirement, which is descent from an individual on a list of Mohegan Indians prepared in or before 1861. Documentary evidence exists establishing their ancestry back to such lists. Descent from the historical tribe could not be documented for 15 percent of the membership. Either the descent claimed could be disproved or there was insufficient information to determine whether the 15 percent descended from the historical tribe.

No evidence was found that the members of the Mohegan Tribe of Indians are members of any other Indian tribe or that the group or its members have been the subject of Federal legislation which has expressly terminated or forbidden a relationship with the United States Government.

Based on this preliminary factual determination, we conclude that the Mohegan Tribe of Indians meet criteria a, d, e, f, and g, but does not meet criteria b and c of § 83.7 of the Acknowledgment regulations (25 CFR Part 83). Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120-days from the date of publication of this notice.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision will be available to the petitioner and

interested parties upon written request. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, 18th & C Streets, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4627–MIB.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the 120–day response period, the Assistant Secretary will publish the final determination regarding the petitioner's status in the Federal Register as provided in § 83.9(h).

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 89–26457 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[ID–020–09–4410–08]

Burley District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on December 5, 1989. The meeting will convene at 9:30 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) Introductions, (2) Littering and Unauthorized Dumping Laws and Regulations, (3) Update on German Lake and Other Unauthorized Dumps, (4) Prescribed Burns, (5) Update of Black Pine Mountain Deer Proposal.

This meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will start at 11:30 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed. Individuals wishing to attend the field tour must provide their own transportation.

Minutes of the Council meeting will be maintained in the District Office and will be available for the public inspection during regular business hours.

DATE: December, 5, 1989.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Gerald L. Quinn, Burley District Manager, (208) 678–5514.

Dated: October 31, 1989.

Gerald L. Quinn,

District Manager.

[FR Doc. 89–26464 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–66–M

[WY–060–4320–12–2410]

Meeting; Casper District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Casper District Advisory Council.

SUMMARY: The Casper District Advisory Council will convene at 10:00 a.m., December 1, 1989 at the Casper District Office, 1701 East "E" Street, Casper, Wyoming. The public comment period is scheduled for 11:00 a.m. The meeting is open to the public.

The council will address the following agenda items during the meeting: 1. Overview of the District's Coal Management Program; 2. Recreation and Wildlife programs; 3. Areas of Critical Environmental Concern (ACECs); 4. Bonding for oil and gas drilling; 5. BLM wilderness update; 6. National recreation area feasibility study; 6. Newcastle Resource Management Plan; and, any other topic raised by either council members or members of the public.

FOR FURTHER INFORMATION CONTACT: Kate DuPont, Public Affairs Specialist, 307–261–7600, Casper, Wyoming.

Dated: November 3, 1989.

James W. Monroe,

District Manager.

[FR Doc. 89–26466 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–22–M

[ID–040–00–4320–10]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held Thursday, December 14, 1989, at 10:00 a.m.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92–463. The meeting is open to the public; public comments on agenda items will be accepted from 1:00 to 1:30 p.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by December 8, 1989. The agenda items are Proposed Projects, Allotment Management Plans, Status of Project Accounts, and any other issues dealing with grazing management in the Salmon District.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:15 p.m.) within 30 days after the meeting. For further information, contact: Roy S. Jackson, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, phone (208) 756–5400.

Dated: October 31, 1989.

Roy S. Jackson,

District Manager.

[FR Doc. 89–26463 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–66–M

[MT–920–90–4111–11; MTM 72542]

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 MTM 72542, Carbon County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration 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 Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and

reimbursement for cost of publication of this Notice.

Dated: November 2, 1989.

Cynthia L. Embretson,

Chief of Fluids Adjudication Section.

[FR Doc. 89-26461 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-DN

Realty Action; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, competitive and modified competitive sale of public lands in Morgan, Larimer, Jefferson, and Park Counties, Colorado.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1701, 1713) at no less than the appraised fair market value (minimum bid price):

Parcel No.	Legal description	Acreage	Minimum bid	Type
C-48674	T.1N., R.60W., Sec. 24, NW¼SE¼	40.00	$950	MC
C-47722	T.2N., R.59W., Sec. 17, NE¼NE¼	40.00	1,000	MC
C-47723	T.9N., R.68W., Sec. 30, SE¼NW¼	40.00	17,000	C
C-47724	T.12N., R.70W., Sec. 22, Lots 1 & 2	34.40	14,000	C
C-47725	T.10N., R.70W., Sec. 12, NE¼NE¼	40.00	2,500	MC
C-47727	T.6N., R.70W., Sec. 11, Lot 3	20.66	16,000	C
C-47729	T.6S., R.70W., Sec. 23, Lots 12, 13, 16	7.82	8,000	C
C-47730	T.6S., R.73W., Sec. 35, SE¼	160.00	100,000	MC

C—Competitive MC—Modified Competitive

The total acreage in this sale offering is 382.88 acres. These lands are hereby segregated from appropriation under the public land laws, including the mining laws, until the land is sold or 270 days from publication. Bidding on all eight parcels will be open to the public; the "modified competitive" parcels are currently leased for grazing, and the lessee will be allowed to match the high bid received on those sale parcels.

SALE PROCEDURES: Bidding will be by sealed bid only. No bids will be accepted for less than the minimum bid price for each parcel. Sealed bids will be accepted until 1 p.m. on January 17, 1990. Bid opening will be at 2 p.m. on the sale day at the Canon City District Office. Any of the parcels not sold at this January 17th sale will continue to be offered for sale by competitive bidding to the general public beginning February 7, 1990 and the 1st and 3rd Wednesdays each month thereafter until sold or the sale is canceled. The preference right given to grazing lessees is good only through 1/31/90. All lands will be sold with a reservation of all mineral rights, and subject to rights-of-way for ditches and canals (Act of August 30, 1890) and all other existing rights including a reservoir right-of-way affecting parcel C-47723. Parcels C-48674 and C-47722 will include development restrictions for flood plains.

A more detailed sales prospectus providing specific information on each sale parcel, including patent reservations and restrictions will be available upon request.

DATES: Comment period ends December 26, 1989. Sale date is January 17, 1990.

FOR FURTHER INFORMATION: Contact the District Manager, Canon City District Office, 3170 East Main Street, P.O. Box 311, Canon City, Colorado 81212, (719) 275-0631. Comments will be evaluated by the District Manager, who may cancel or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become final.

Adrian W. Neisius,

Acting District Manager.

[FR Doc. 89-26460 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-JB-M

[OR 43344; OR-080-00-4212-13: GPO-048]

Proposed Exchange

November 2, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

This exchange will be between the United States (Bureau of Land Management) and Boise Cascade Corporation (BCC), a Delaware corporation.

The following described public lands have been examined and determined to be suitable for tansfer out of Federal ownership by exchange under the authority of section 206 of the Federal Land Policy and Management Act of 1976, as amended (42 U.S.C. 1701 et seq.):

Willamette Meridian, Oregon

T. 7 S., R. 6 W.,
Sec. 34, SW¼SE¼
T. 8 S., R. 10 W.,
Sec. 20, W½NW¼NW¼
T. 9 S., R. 7 W.,
Sec. 23, E½NE¼, NE¼SE¼
Sec. 35, NE¼NE¼, W½W½
T. 9 S., R. 8 W.,
Sec. 11, N½NW¼, SW¼NW¼, W½SW¼
Sec. 15, NE¼
T. 9 S., R. 11 W.,
Sec. 11, Lot 1

Containing 20.45 acres in Lincoln County and 720.00 acres in Polk County.

In exchange for these lands, the United States will acquire the following described lands from BCC:

Willamette Meridian, Oregon

T. 3 S., R. 6 W.,
Sec. 28, SE¼NE¼, NE¼SE¼, S½SE¼
T. 4 S., R. 5 W.,
Sec. 19, unnumbered lots (SW¼NW¼, NW¼SW¼), NE¼SW¼
T. 4 S., R. 7 W.,
Sec. 14, N½NW¼
T. 7 S., R. 7 W.,
Sec. 26, NE¼SW¼, S½SW¼, SE¼SE¼
Sec. 34, NE¼
Sec. 35, Lots 1-4, E½NE¼, NW¼, N½S½
T. 8 S., R. 6 W.,
Sec. 31, NW¼NE¼, NE¼NW¼
T. 8 S., R. 7 W.,
Sec. 4, SE¼NE¼, N½SE¼, SE¼SE¼
Sec. 9, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼
T. 22 S., R. 6 W.,
Sec. 8, N½NW¼

Containing 80.00 acres in Douglas County, 1,360.80 acres in Polk County, 80.00 acres in Tillamook County, and 283.73 acres in Yamhill County.

The purpose of this exchange is to facilitate resource management opportunities as identified in the Salem District's Westside Management Framework Plan. The public was informed of the initial exchange proposal. One parcel of public land was eliminated from the exchange proposal after expressions of concern were received and another parcel of public land was eliminated because of its proximity to a nesting pair of northern spotted owls. No adverse comments were received in so far as the above-described lands are concerned. The

public interest will be highly served by making this exchange.

The value of the lands to be exchanged is approximately equal or the acreage will be adjusted or timber may be reserved to equalize the values upon completion of the final appraisal of the lands. Full equalization of values will be achieved by payment to the United States of funds in the amount not to exceed 25 percent of the value of the public lands to be transferred. All mineral rights will be transferred with the surface estates.

The patent to the selected lands will be subject to the following:

1. The reservation to the United States of a right-of-way for ditches or canals. Act of August 30, 1890 (43 U.S.C. 945)

2. Valid existing rights.

Publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, except for exchange under section 206 of the Federal Land Policy and Management Act. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant (43 CFR 2201.1(b)). The segregative effect of this notice will terminate upon issuance of patent or in two years, whichever occurs first.

Detailed information concerning this exchange, including the environmental assessment/land report, is available for review at the Salem District Office, 1717 Fabry Road, SE, Salem, Oregon 97306.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Yamhill Area Manager, Salem District Office, address above. Any objections will be reviewed by the Salem District Manager who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Richard C. Prather,

Yamhill Area Manager.

[FR Doc. 89-26472 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-33-M

[NV-050-00-4333-12]

Camping Stay Limits for Public Lands; Las Vegas District, Nevada

November 3, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Initial classification decision, establishment of Camping Stay Limit for Public Lands Administered by the BLM in the Las Vegas District, Las Vegas, Nevada.

SUMMARY: Persons(s) may occupy a site or multiple sites within a ten (10) mile radius on public lands not closed or otherwise restricted to camping within the Las Vegas District for a total period of not more than fourteen (14) days during any twenty-eight (28) day period. Following the fourteen (14) day period, person(s) may not relocate within a distance of ten (10) miles of the site that was just previously occupied until completion of the twenty-eight (28) day period. The fourteen (14) day limit may be reached either through a number of separate visits or through a period of continuous occupations of a site. Under special circumstances and upon request, the authorized officer may give written permission for extension of the fourteen (14) day limit. Additionally, no person may leave personal property unattended in designated campgrounds, recreation developments or elsewhere on public lands within the Las Vegas District for a period of not more than forty-eight (48) hours without written permission from the authorized officer.

This camping limit does not apply to Long Term Visitor Use Areas so designated by the Las Vegas District.

EFFECTIVE DATE: Thirty (30) days after publishing in the Federal Register, for administrative review, this decision becomes effective.

ADDRESS: District Manager, Las Vegas District Office, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

SUPPLEMENTARY INFORMATION: Proposed classification for establishing camping stay limitations for public lands in the Las Vegas District, Nevada was published in the Federal Register, Volume 54, No. 138, pages 30476 and 30477. The comment period for the proposed classification was from August 21, 1989 to September 20, 1989 and was extended until October 15, 1989 to allow sufficient time for all affected parties to comment. Two written comments were received. Both supported the establishment of camping stay limitations on public lands.

This camping stay is consistent with BLM policy and is established to assist BLM in reducing the incidence of long-term occupancy trespass conducted under the guise of camping on public lands within the Las Vegas District. Of equal importance is the problem of long-term camping which precludes equal opportunities for other members of the public to camp in the area and creates user conflicts.

Authority for camping stay limits is contained in CFR title 43, chapter II, part 8360, subpart 8364.1, subpart 8365, subpart 8365.1-2, 8365.1-6, and 8365.2-3.

8360.0-7 Penalties: Violations of any regulations in this part by a member of the public, except for the provisions of 8365.1-7 are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by 8365.1-6 are punishable in the same manner.

Dated: November 3, 1989.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 89-26459 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-HC-M

[ID-942-00-4720-12]

Idaho: Filing of Plats of Survey

The plat of survey of the following described land, was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho effective immediately, on November 2, 1989.

The plat representing the dependent resurvey of a portion of the subdivisional lines and certain mineral surveys, T. 48 N., R. 3 E., Boise Meridian, Idaho, Group No. 758, was accepted November 2, 1989.

This survey was executed to meet certain administrative needs by the U.S. Forest Service.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: November 2, 1989.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 89-26462 Filed 11-8-89; 8:45 am]

BILLING CODE 4310-66-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: David Blasko, Redwood City, CA; PRT-744129

The applicant requests a permit to export and reimport one male Asian elephant (*Elephas maximus*) born in the United States to the Philippines and return for the purpose of enhancement

of propagation through conservation education. The elephant may be reexported and reimported to several countries in the future for this purpose.

Documents and other information submitted with this application are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) Room 432, 4401 N. Fairfax Drive, Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203–3507.

Interested persons may comment on this application within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the PRT number when submitting comments.

Dated: November 3, 1989.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89–26404 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–AN–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget, Interior Department Desk Officer, Project Number 1010–0072, Washington, DC 20503, telephone (202) 395–7340, with copies to Gerald Rhodes, Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 3313; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070.

Title: Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf, 30 CFR part 280.

OMB approval number: 1010–0072.

Abstract: Respondents provide certain information to the Minerals Management Service (MMS) when applying for and conducting work under a prelease prospecting and scientific research permit. The MMS uses this information to evaluate permit applications and plans and to monitor activities conducted pursuant to the permit.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal OCS permittees.

Estimated completion time: 13.2 hours.

Annual Responses: 62.

Annual Burden Hours: 820.

Bureau Clearance Officer: Dorothy Christopher (703) 787–1239.

Dated: September 26, 1989.

Carolita Kallaur,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 89–26467 Filed 11–8–89; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Meeting of the Advisory Committee for the U.S. Trade and Development Program

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee for the U.S. Trade and Development Program ("TDP"). The meeting will be held on Tuesday, November 28, 1989 at the Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC.

The Committee will begin formulation of a strategic plan for the U.S. Trade and Development Program for the decade ahead.

The meeting will begin at 9:00 a.m. and will adjourn when its business is completed that afternoon. The meeting is open to the public. Any interested persons may attend, file a written statement with the Advisory Committee, and, when recognized by the chairperson, present short oral statements as time permits.

For further information, contact Priscilla Rabb, Director, TDP, Room 309, S.A.–16, Washington, DC 20523–1602, area code 703–875–4357.

Dated: October 30, 1989.

Nancy Frame,

Deputy Director.

[FR Doc. 89–26454 Filed 11–8–89; 8:45 am]

BILLING CODE 6116–01–M

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, Room 1100B, SA–14, Washington, DC 20523.

Date Submitted: October 31, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0007.

Form Number: None.

Type of Submission: Renewal

Title: Report of Loss, Damage or Misuse of Commodities Donated Under Public Law 480, Title II Activities.

Purpose: U.S. non-profit voluntary agencies and foreign governments receiving U.S. donated Title II commodities for use in programs overseas (worldwide) to alleviate hunger and malnutrition are required under AID Regulation 11 to account for these commodities and provide reports that they are being used for purposes set forth in the legislation. Therefore, a report must be provided of all commodity losses due to theft, damage and misuse by cooperating sponsors implementing the program to the U.S. Government.

Reviewer: Donald Arbuckle (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 1989.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 89–26455 Filed 11–8–89; 8:45 am]

BILLING CODE 6116–01–M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these

information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, Room 1100B, SA–14, Washington, DC 20523–1407.

Date Submitted: October 31, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0517.

Form Number: None.

Type of Submission: Renewal.

Title: A.I.D. Regulation 10—Donation of Dairy Products to Assist Needy Persons Overseas (Section 416 Program)

Purpose: Under section 416 of the Agricultural Act of 1949, as amended, A.I.D. is to carry out the responsibilities for selecting, approving, administering and implementing the temporary program of the donation of surplus dairy products. The Section 416 program will be carried out through public, nonprofit, private, humanitarian organizations such as U.S. nonprofit voluntary agencies, cooperatives or intergovernmental organizations and foreign governments, known as cooperative sponsors. The cooperating sponsor wishing to participate in a Section 415(b) program must submit to A.I.D. a progress report every six months and final report upon completion of the program. This report to include information on the distribution of the commodities involved, management of the program and program accomplishments.

Reviewer: Donald Arbuckle (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 1989.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 89–26456 Filed 11–8–89; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub–No. 326X)]

CSX Transportation, Inc.—Abandonment Exemption—in Huron County, OH

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 0.66-mile line of railroad between milepost 87.10, near Townline Road north of Willard, and milepost 87.76, at Willard, Huron County, OH.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 9, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by November 20, 1989.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 14, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 6, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26406 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[Finance Docket No. 31553]

Chaparral Railroad Co., Inc.—Acquisition and Operation Exemption—Line of the Atchison, Topeka and Santa Fe Railway Co.

Chaparral Railroad Company, Inc. (Chaparral), a non-carrier, has filed a notice of exemption to acquire and operate approximately 61.4 miles of rail line of the Atchison, Topeka and Santa Fe Railway Company (Santa Fe). The line extends between Paris, TX (near milepost 152.5), and Farmersville, TX (near milepost 91.1), and includes a railroad yard in Paris. Chaparral will also acquire incidental trackage rights over Santa Fe's line between Farmersville and Garland, TX.

The transaction is expected to be consummated on November 27, 1989, or upon approval of a petition for exemption filed concurrently in Finance Docket No. 31554, *Jack L. Hadley—Control Exemption—Kiamichi Railroad Company, Inc., and Chaparral Railroad Company, Inc.* That petition relates to the common control of Kiamichi Railroad Company, Inc. (Kiamichi), a Class III railroad, and Chaparral, a newly created corporation that will be affiliated with Kiamichi. Chaparral certifies that its projected revenues do not exceed those that would qualify it as a Class III carrier.

Any comments must be filed with the Commission and served on: Kevin M. Sheys, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York

Avenue NW., Washington, DC 20005–4797.

Chaparral 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 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: October 26, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26400 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31550]

Council Bluffs and Ottumwa Railway, Inc.—Lease, Operation, and acquisition Exemption—Iowa Southern Railroad Co. and Ottumwa Terminal Railroad Co.

The Council Bluffs and Ottumwa Railway, Inc. (CBO), has filed a notice of exemption: (1) To lease and operate (with an option to purchase) approximately 27 miles of rail line of Iowa Southern Railroad Company (IS) consisting of the former Norfolk and Western freight yard at Council Bluffs, IA (5 miles) (milespost 407.7 to milepost 410.06), and the fomrer Milwaukee Road Terminal property at Council Bluffs (22 miles) (milepost 0.0 to milepost 0.3); and (2) to acquire and operate 4.3 miles of rail line owned and operated by Ottumwa Terminal Railroad Company (OT), consisting of the former Milwaukee Road city track and railroad property at Ottumwa, IA (4.3 miles) (milespost 0.0 to milespost 2.3).[1] Any comments must be filed with the Commission and served on: Roy N. Hollaway, Council Bluffs and Ottumwa Railway, Inc., 107 Fifth Street, Castle Rock, Co 80104.

CBO shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the lines 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: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26493 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31551]

Denver Railway, Inc.—Acquisition and Operation Exemption—Denver Terminal Railroad Co.

Denver Railway, Inc. (DR), has filed a notice of exemption to acquire and operate approximately 11.3 miles of rail line of Denver Terminal Railroad Company (DT) consisting of the former Denver Union Stockyards terminal railroad property at Denver, CO (3.3 miles) (milepost 0.0 to milepost 0.8), and the former Rock Island terminal railroad property at Denver (8 miles) (milepost 0.72 to milepost 3.95).[1]

Any comments must be filed with the Commission and served on: Roy N. Hollaway, Denver Railway, Inc., 107 Fifth Street, Castle Rock, CO 80104.

DR 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: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26490 Filed 11–8–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31549]

National Railway System, Inc.—Control Exemption—Denver Railway, Inc., Council Bluffs and Ottumwa Railway, Inc., and Fore River Railway Co.

National Railway System, Inc. (NRS), a noncarrier, has filed a notice of exemption under 49 CFR 1180.2(d)(2) for its control of Council Bluffs and Ottumwa Railway, Inc. (CBO), Denver Railway, Inc. (DR), and Fore River Railway Company, Inc. (FRR). CBO and DR have each filed separate notices of exemption in Finance Docket No. 31550, Council Bluffs and Ottumwa Railway, Inc.—Lease, Operation, and Acquisition Exemption—Iowa Southern Railroad Company and Ottumwa Terminal Railroad Company, and in Finance Docket No. 31551, Denver Railway, Inc.—Acquisition and Operation Exemption—Denver Terminal Railroad Company, respectively.

Under this proposal NRS will: (1) Purchase part of the railroad properties of Ottumwa Terminal Railroad Company, and lease for 5 years (with an option to purchase) the railroad properties of Iowa Southern Railroad Company, for CBO; (2) purchase the railroad properties of Denver Terminal Railroad Company for DR; and (3) purchase all of the capital stock of FRR from Evelyn Jane Flanders. CBO, DR, and FRR will operate as wholly owned subsidiaries of NRS. CBO will be comprised of the former Milwaukee Road terminal property (22 miles) (milepost 0.0 to milepost 0.3), DR will be comprised of the former Denver Union Stockyards terminal railroad property (3.3 miles) (milepost 0.0 to milepost 0.8), and the former Rock Island line and terminal property (8 miles) (milepost 0.72 to milepost 3.95), at Denver, CO, and the Norfolk and Western freight yard (5 miles) (milepost 407.7 to milepost 410.86), both at Council Bluffs, IA, and the former Milwaukee Road track and railroad property at Ottumwa, IA (4.3 miles) (milepost 0.0 to milepost 2.3). FRR is a short line property, approximately 3 miles in length (milepost 0.0 to milepost 2.0), at Quincy, MA, which leases track, locomotives, and other property from Fore River Railroad Company, a subsidiary of Massachusetts Water Resources.

[1] This tranaction is part of a larger transaction in which National Railway System, Inc., a noncarrier, will control three carrier, will control three carriers, CBO, Denver Railway, Inc., and Fore River Railway Company. *See* Finance Docket Nos. 31549 and 31551, being published simultaneously with this notice.

[1] This transaction is part of a larger transaction in which National Railroad System, Inc., a noncarrier, will control three carriers, DR, Council Bluffs and Ottumwa Railway, Inc., and Fore River Railway Company. *See* Finance Docket Nos. 31549 and 31550, being published simultaneously with this notice.

NRS indicates that the transaction: (1) Does not involve lines that connect; (2) is not part of a series of transactions that would connect the involved lines; and (3) does not involve a Class I carrier. Therefore, this transaction involves the control of nonconnecting carriers, and is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

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. Pleadings must be filed with the Commission and served on: Roy N. Hollaway, National Railway System, Inc., 107 Fifth Street, Castle Rock, CO 80104.

Decided: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26492 Filed 11-8-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31487]

Natchez Trace Railroad—Purchase and Lease—CSX Transportation, Inc. Lines Between Wellington and Anniston, AL, and Talladega and Gantt's Jct., AL

AGENCY: Interstate Commerce Commission.

ACTION: Approval of a purchase and lease transaction under 49 U.S.C. 11343, *et seq.*

SUMMARY: The Interstate Commerce Commission approves the purchase and lease by Natchez Trace Railroad and Kyle Railways, Inc., of 41.42 miles of rail line owned by the CSX Transportation, Inc. (CSXT). Under the proposal, NTR will purchase CSXT's line between Anniston (milepost 507.73) and Wellington (milepost 522.79), in Calhoun County, AL, a distance of 15.06 miles, and will lease CSXT's line between Gantt's Jct. (milepost 453.58) and Talladega (milepost 479.94), in Talladega County, AL, a distance of 26.36 miles. The transaction is approved subject to the conditions for the protection of railroad employees described in *New York Dock Ry.—Control—Brooklyn East. Dist.* 360 I.C.C. 60 (1979), *aff'd sub nom. New York Dock Ry.* v. *U.S.*, 609. F.2d 83 (2d Cir 1979), and clarified in Brandywine Valley R. Co.—Pur-CSX Transp. Inc., 5 I.C.C.2d 764 (1989) for the purchase; and *Mendocino Coast Ry., Inc.—Lease and Oper.*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980), for the lease.

EFFECTIVE DATES: This decision is effective November 16, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31487 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Applicants' representatives: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201.
Fritz R. Kahn, Verner, Liipfert, Bernhard, McPherson & Hand, 901 Fifteenth St., N.W., Washington, DC 20005-2301.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services, (202) 275-1721.)

Decided: November 2, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26407 Filed 11-8-89; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31538

New York, Susquehanna & Western Railway Corp.—Joint Project for Relocation of a Line of Railroad and Trackage Rights Exemptions—Consolidated Rail Corp.

On October 2, 1989, New York, Susquehanna & Western Railway Corporation (NYSW) filed a notice of exemption under 49 CFR 1180.2(d) (5) and (7) for a joint project with Consolidated Rail Corporation (Conrail) for NYSW's relocation of its operations through acquisition of overhead trackage rights over Conrail's line between milepost 66±, at Campbell Hall, NY, and milepost 63.14± east of Campbell Hall (the point of the switch of a new connector track) then over the entire length of the new contractor track between milepost 63.14± and milepost 2.6±. The trackage rights became effective on October 2, 1989.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers, and, incidental thereto, the discontinuance of NYSW trackage rights over Contrail's line between milepost 66± and milepost 2.6± and the construction of a connector track to facilitate the relocation and for operational reasons. The Commission will assume jurisdiction over the discontinuance and construction components of a relocation project only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory, or change in existing competitive situations. *See, generally, Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN,* 4 I.C.C.2d 95 (1987). Under these standards, the discontinuance of trackage rights and construction of track are not subject to the Commission's jurisdiction. The remainder of the joint relocation project, involving the acquisition of overhead trackage rights, qualifies under the class exemption procedures at 49 CFR 1180.2(d) (5) and (7).

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 .C.C. 605 (1978), as modified in *Mendocino Coast Rv., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

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: Michael F. Armani, 1 Railroad Avenue, Cooperstown, NY #13326.

Dated: November 3, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings

Noreta R. McGee,

Secretary.

[FR Doc. 89-26405 Filed 11-8-89; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1508]

The Atchison, Topeka and Santa Fe Railway Co.—Directed Service—Chicago, Missouri and Western Railway Co., Debtor (Daniel R. Murray, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order.

SUMMARY: Pursuant to 49 U.S.C. 11125, the Commission is authorizing The

Atchison, Topeka and Santa Fe Railway Company (ATSF) to operate as a "Directed Rail Carrier"—uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5)—over the lines of the Chicago, Missouri and Western Railways (CMW) between Cockrell, IL, near Springfield, IL and Kansas City, MO, and between Roodhouse, IL and Tolson, IL, in the East St. Louis terminal area (East/West Line), for 60 days.

This unsubsidized and uncompensated directed service order is based on the representation by the CMW Trustee that the railroad's cash position does not allow it to continue operations over its East/West Line beyond Friday, November 3, 1989, and that there will be cessation of service by CMW. To assure continued service to shippers that would be affected by the discontinuance of operations, the Commission is authorizing the ATSF to provide interim service over the East/West Line of CMW. See 49 U.S.C. 11125(a) (1) and (3).

DATES: *Effective Date:* Directed Service Order No. 1508 shall be effective on November 3, 1989, and authorized rail service shall commence upon cessation of service operations by CMW and its notification that it has done so to the Common and ATSF. ATSF shall immediately notify the Commission and all parties to this proceeding of the date it commences operations under this authority. *Expiration Date:* Unless otherwise modified by the Commission, Directed Service Order No. 1508 will expire at 11:59 p.m., on January 2, 1990.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275-1559 or Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired, (202) 275-1721).

SUPPLEMENTARY INFORMATION: The Chicago, Missouri and Western Railway Company (CMW) has been in bankruptcy since April 1, 1988, in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, (Bankruptcy Filing No. 88 B 05141). The carrier's rail system extends from Kansas City, MO on the west to Chicago, IL on the East and northward from East St. Louis, IL to Chicago, IL.[1]

On October 31, 1989, the trustee filed with the Bankruptcy Court an application seeking approval of a proposed sale of CMW's rail lines—between Cockrell, IL and Kansas City, MO, and between Roodhouse, IL and Tolson, IL (East/West Line)—to "CM&W Acquisition Corp."

On October 31, 1989, the CMW's Trustee also notified the Commission, in writing, that because of its deteriorating cash position the carrier will be unable to continue operations over its system.[2] The Trustee argues that the directed service authority sought here is the only method by which operations can continue on the East/West Line.

Section 11125(a) of the Interstate Commerce Act authorizes the Commission to act in situations where it finds that *a rail carrier cannot transport traffic offered to it because—(1) its cash position makes its continuing operation impossible; (2) transportation has been discontinued under court order; or (3) it has discontinued transportation without obtaining a required certificate under 49 U.S.C. 10903* (emphasis added). The initial period for the directed service order may not exceed 60 days.[3] However, the order may be extended for an additional period not to exceed 180 days.

Under a directed service order from the Commission, a directed carrier may voluntarily choose to provide directed service without any subsidy or compensation to which it may be entitled from the Commission, as ATSF has done here. *See St. Louis S.W. Ry. Co—Directed Service—Chciago*, 363 I.C.C. 1 (1980), and Directed Service Order No. 1504, *The New York, Susquehanna and Western Railway Corporation—Directed Service—The Delaware and Hudson Railway Company*, (not printed) served June 22, 1988.[4]

Considering CMW's announced imminent cessation of service due to cashlessness, and CMW's request that the Commission direct service on the East/West Line, we find that CMW's current situation meets the statutory standards of 49 U.S.C. 11125(a)(1) and (3).

In view of the urgent need for continued rail service over CMW's East/West Line, and ATSF's willingness to provide directed service without compensation from the Federal government, the Commission is exercising its authority under 49 U.S.C. 11125(a) and authorizing ATSF to commence operations upon CMW's cessation of service. Service authorized by this order includes operations utilizing trackage rights agreements, leases, and other existing arrangements of CMW with connecting railroads.

The emergency nature of the situation compels us to conclude that advance public notice and hearings would be impractical and contrary to the immediate public interest concern to secure continued rail transportation services. Accordingly, we exercise our authority under 49 U.S.C. 11125(a) to waive advance public notice and hearings in the present circumstances.

Section 11125 permits us to direct service for an initial period of not more than 60 days, with an option to extend the direct service period for an additional 180 days, if cause exists. We believe directed service authority to be necessary here at least for an initial 60 day period. Any interested person may file comments on this action during this period.

Terms and Conditions

Effective Date. Directed Service Order No. 1508 shall be effective on November 3, 1989. On the date CMW ceases operations and notifies the Commission and ATSF that it has done so, ATSF shall be authorized to commence operations and shall notify the Commission and all parties to this proceeding of the date it commences operation under this authority.

Compensation. ATSF's authority under Directed Service Order No. 1508 is expressly conditioned upon its waiver of all compensation under 49 U.S.C. 11125(b)(5).

Track Safety. In accordance with 49 U.S.C. 11125(b)(2)(A), ATSF need not operate over any CMW line segment certified by the Federal Railroad Administration as being below Class I track safety standards.

Cars and Operating Equipment. In operating CMW's line, ATSF shall use its own cars and operating equipment

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[1] In Finance Docket No. 31522, *Rio Grande Industries, Inc., Et al.—Purchase and Trackage Rights—Chicago, Missouri and Western Railway Company Between St. Louis, MO and Chicago, IL.*, served September 29, 1989, the Commission granted authority for Rio Grande Industries, Inc. (RGI), Southern Pacific Transportation Company (SPT), The Rio Grande Western Railroad Company (DRGW), St. Louis Southwestern Railway Company (SSW), and SPCSL Corp. (SPCSL), a recently incorporated subsidiary of RGI, to acquire CMW's lines between East St. Louis and Chicago, IL, East St. Louis and Godfrey, IL, and certain attendant trackage rights. The Trustee has notified the Commission that consummation of the above purchase is scheduled for November 6, 1989.

[2] On October 16, 1989, the Commission issued Directed Service Order No. 1507, authorizing SSW to operate as a Directed Rail Carrier, uncompensated and without Federal subsidy under 49 U.S.C. 11125(b)(5) over the Chicago to St. Louis lines of CMW for 60 days.

[3] It should be noted that the Trustee and ATSF anticipate negotiation of a directed service agreement that is expected to provide for termination of directed service upon the earliest of 45 days after the date on which ATSF enters the line to provide the directed service or upon the occurrence of various described contingencies. Petition for Directed Service Order at 7.

[4] Likewise, the Commission may authorize directed service without provision for compensation to the carrier over which service is directed. *Kansas City Terminal Ry. Co.—Operate—Chicago R.I.&P.*, 360 I.C.C. 289 (1979).

wherever possible. However, ATSF may use CMW's cars and operating equipment on terms mutually agreeable to the parties.

Employees. In providing service under this directed service order, ATSF shall comply with the requirements of 49 U.S.C. 11125(b)(4) with respect to CMW employees.

Preservation of the CMW estate. During the period of its operation of the CMW lines, ATSF shall be responsible for preserving the value of those lines to the CMW estate. ATSF shall thus have an affirmative duty to perform that degree of maintenance necessary to avoid deterioration of the lines and related facilities.

Rates. ATSF is authorized to act on behalf of CMW in all matters of transportation. Rates and charges shall be those applicable to the line and in effect at the time ATSF commences operations. ATSF may seek changes in CMW rates and charges. All revenues from such charges shall accrue to the account of ATSF during the effective period of this order, and shall not constitute assets of the Trustee or the estate.

Liability for Expenses. Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility and liability of ATSF. Any such costs or expenditures shall not be deemed an obligation or liability of the United States Government. ATSF shall hold the United States Government harmless from any claim arising out of the authorized operations.

Operational Difficulties. Any operational difficulties associated with the authorized operations shall be resolved by ATSF and any other affected party through negotiated agreement, or failing agreement, by the Commission.

Reporting Requirements. To assist us in evaluating ATSF's operation of the line, we shall require ATSF to file a report at the end of the directed service period identifying: (a) The average number of carloads transported daily over the line during the directed service period; (b) the total gross revenue for the carloads transported; and (c) CMW's normal portion of the total gross revenue.

We find:

1. CMW intends to discontinue service over certain of its lines. ATSF has requested the Commission to permit it to provide continued rail service over those lines of CMW between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL.

2. To prevent severe transportation and economic disruptions when CMW ceases operations, it is necessary for the Commission to authorize ATSF to operate CMW's lines between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL under 49 U.S.C. 11125, conditioned upn a waiver of any compensation or subsidy from the Federal government.

3. Our action in this decision will not substantially impair the ability of ATSF to serve its own patrons adequately, or meet its outstanding common carrier obligations, *see* 49 U.S.C. 11125(b)(2)(B), and will assure continued rail service to affected shippers.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

1. Based upon its undertaking to do so without any form of compensation from the Federal government, ATSF is authorized to enter upon and operate CMW's lines between Cockrell, IL, and Kansas City, MO, and between Roodhouse and Tolson, IL pursuant to this voluntary directed service order under 49 U.S.C. 11125.

(a) Entry by ATSF may occur on the date CMW discontinues service and notifies ATSF and the Commission that it has done so, and operations by ATSF may continue no later than the sixtieth day after the service date of this decision.

(b) ATSF shall immediately notify the Commission and the parties to this proceeding, in writing, of the date on which it commences operations under this order.

2. Operations under this order shall conform to the directions and conditions prescribed above.

3. All submissioins filed in this proceeding should refer to DSO No. 1508 and be sent to the Commission's headquarters at 12th Street and Constitution Avenue, NW., Washington, DC 20423. An original and 10 copies should be submitted.

4. The provisions of this decision shall apply to intrastate, interstate, and foreign commerce.

5. The Commission retains jurisdiction to modify, supplement, or reconsider this decision at any time.

6. Notice of this decision shall be given to the general public by publication in the **Federal Register**. The decision will also be served on the Federal Railroad Administration, the Association of American Railroads, American Short Line Railroad Association, Amtrak, The Railway Labor Executives' Association, the CMW, ATSF, Consolidated Rail Corporation, and SSW.

7. This decision and order shall become effective on November 3, 1989.

8. Unless otherwise modified by the Commission, this order will expire at 11:59 p.m., on January 2, 1990.

Decided: November 3, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26408 Filed 11-8-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

Consistent with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a Complaint was filed on August 26, 1987, in *United States* v. *General Motors Corporation,* Civil Action No. CV87-1890S, in the United States District Court for the Northern District of Texas, Fort Worth Division, and a proposed Settlement Agreement between the United States and General Motors Corporation ("GM") was signed by the parties on October 23, 1989. This Settlement Agreement settles the claims alleged in the Complaint and in a Notice of Violation issued by the Environmental Protection Agency on May 12, 1987, pursuant to the Clean Air Act, 33 U.S.C. 7401 *et seq.*, for civil penalties for violations of the Clean Air Act, and section 115.191(a)(8) of Regulation V of the federally enforceable Texas State Implementation Plan ("SIP").

Under the terms of the proposed Settlement Agreement, GM has agreed to interim and final compliance requirements for the primer surfacer, topcoat and final repair lines. GM also has agreed to convert its laquer topcoat line to a base coat/clear coat line by September 1, 1990. After the base coat/clear coat line has been installed, GM will determine the daily emission rate of the topcoat line by implementing EPA's protocol for measuring daily topcoat emissions. GM will use a similar measurement method for the primer surfacer line.

GM will use an occurrence weighted average to demonstrate compliance for its automobile final repair coating line. GM will provide compliance demonstrations, monitoring and retesting. Unless the parties agree otherwise, the final compliance requirements, the payment of stipulated penalties, and the payment of a civil penalty in the amount of $85,000.00 will not be applicable if a state proposed SIP revision to amend Regulation V, section 115.191(8) of the Texas SIP is not

submitted to EPA, or is not approved by EPA, or if a federally approved SIP revision is reversed on appeal.

The Department of Justice will receive comments relating to the proposed Settlement Agreement for a period of 30 days from the date of the publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *General Motors Corporation*, D.O.J. Ref. No. 90–5–2–1–1027.

The proposed Settlement Agreement may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Mike Barra, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 (214) 655–2125.

United States Attorney's Office

Wayne Hughes, Assistant United States Attorney, 310 United States Courthouse, 10th and Lamar Streets, Fort Worth, Texas 76102–3674.

Copies of the proposed Settlement Agreement may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Settlement Agreement may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the Decree and Order, please enclose a check for copying costs in the amount of $2.50 payable to Treasurer of the United States.

George W. Van Cleve,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–26469 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a Complaint was filed on August 27, 1987, in *United States* v. *General Motors Corporation*, Civil Action No. CV87–1890S, in the United States District Court for the Western District of Louisiana, Shreveport Division; an Order providing a procedure for revision of the Louisiana State Implementation Plan in certain respects was entered on October 24, 1989; and a proposed Consent Decree between the United States and General Motors Corporation ("GM") was lodged with the court on October 24, 1989. This Consent Decree would settle the claims alleged in the Complaint pursuant to the Clean Air Act, 33 U.S.C. 7401 *et seq.*, for injunctive relief and civil penalties for violations of the Clean Air Act, and section 22.9.2 of the federally enforceable Louisiana State Implementation Plan ("SIP").

Under the terms of the proposed Consent Decree, GM has agreed to comply with the existing SIP limit of 3.5 lbs. of VOC per gallon of coating (minus water) limit for the Chassis Black and Anti-corrosion lines. GM has agreed to comply with a 15.1 lbs. of VOC per gallon of solids applied limit which is to be proposed to be incorporated into the Louisiana SIP for the topcoat line. GM will determine the daily emission rate on the topcoat line by implementing EPA's protocol for measuring daily topcoat emissions. These requirements will take effect on January 1, 1990, or upon entry of the Consent Decree after the 15.1 limit has been incorporated into the SIP. GM also has agreed to submit a compliance demonstration, to monitor the topcoat line and retest, if necessary, and to provide records of compliance to EPA. Unless the parties agree otherwise, the compliance requirements and the payment of a civil penalty in the sum of $85,000.00 will not be applicable if a State proposed SIP revision to amend LAC 33:III.2133 is not submitted to EPA, or is not approved by EPA, or if a federally approved SIP revision is reversed on appeal.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *General Motors Corporation*, D.O.J. Ref. No. 90–5–2–1–1030.

The proposed Consent Decree and the Order providing a procedure for SIP revision review may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region IV

Contact: Mike Barra, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 (214) 655–2125.

United States Attorney's Office

John R. Halliburton, Assistant United States Attorney, Room 3B12, Federal Building, 500 Fannin Street, Shreveport, Louisiana 71101–3088.

Copies of the proposed Consent Decree and the Order may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree and the Order may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the Decree and Order, please enclose a check for copying costs in the amount of $1.50 payable to Treasurer of the United States.

George W. Van Cleve,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–26470 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint was filed on October 2, 1989 in *United States* versus *City of Nacogdoches*, Civil Action No. L–89–137–CA, in the United States District Court for the Eastern District of Texas, and simultaneously, a proposed consent decree between the United States and the City of Nacogdoches ("City") was lodged with the court. This consent decree settles the claims alleged in the complaint pursuant to Clean Water Act, 33 U.S.C. 1251 *et seq.*, for injunctive relief and civil penalties for violations of the Clean Water Act, the Environmental Protection Agency's ("EPA") pretreatment regulations at 40 CFR part 403, and the City's National Pollutant Discharge Elimination System ("NPDES") permit for its publicly-owned treatment works.

Under the terms of the proposed consent decree, the City has agreed to employ a full-time pretreatment coordinator; conduct a priority pollutant scan of all industrial users ("IU"); issue permits to all IUs; inspect all IUs; and, implement an effective IU enforcement program. In addition, the City has agreed to pay a civil penalty of $60,000.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the

Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* versus *City of Nacogdoches*, D.J. Ref. 90–5–1–1–3281.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region VI

Contact: Pat Rankin, Office of Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 (214) 655–2129.

United States Attorney's Office

Ruth Yeager, Assistant United States Attorney, 110 E. College, Suite 600, Tyler, Texas 75702 (214) 597–8146.

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, room 1515, 10th and Pennsylvania Avenue, NW., Washington, 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $1.30 payable to Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–26468 Filed 11–8–89; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–20, 909]

APV Chemical Machinery Saginaw, MI: Notice of Negative Determination on Reconsideration

Pursuant to a remand by the U.S. Court of International Trade, in *Former Employees of Baker Perkins* v. *Secretary of Labor* (USCIT 89–02–00083) the Department makes the following negative determination on reconsideration for workers of APV Chemical Machinery, Saginaw, Michigan.

Investigation findings show that the Baker Perkins/APV merger resulted in the cessation of all production assembly operations at APV Chemical Machinery in Saginaw in December, 1987. All production of chemical machinery including pod and pusher centrifuges and vertical mixers was transferred to a corporate plant in Lake Mills, Wisconsin. The only functions remaining at Saginaw were marketing, the Tech Center, rebuild operations, administration and product engineering. The findings on remand reveal increasing production and sales of chemical machinery at Lake Mills and a corresponding decrease in sales and production of chemical machinery at Saginaw.

The Department's initial denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The Department's survey of major customers of APV Chemical Machinery for 1986, 1987 and in the first nine months of 1988 showed that the respondents did not import in the periods surveyed. Also, the sales and production of rebuilds and parts and service sales increased in 1987 compared to 1986.

The Court remanded the subject case since the customer survey was incapable of detecting the increased imports claimed by the plaintiffs because of the unique facts involved—the relabelling of imported articles which were sold to the customers of the subject firm. Further, the Court indicated that the record did not show the type of production transferred and the type of production remaining at Saginaw.

In addition to the above matter raised by the Court on remand, the Department addressed the petitioners claim that batch mixers and the extruded equipment like the ones produced at Saginaw were imported from Europe.

Findings on remand show that batch mixers and extruded equipment were imported as claimed by the petitioners. The batch mixers, multiple purpose mixers and extruded equipment have not been produced at Saginaw since 1983. Production at Saginaw in 1988 was at the Rebuild Center and consisted of G-Force Pelletizers and SE Mixers which were never imported and the attachment of purchased domestic motors and controls to the imported equipment. Accordingly, there is no basis for certification since the workers did not produce the articles or that portion of the article imported from Europe during the period investigated by Labor.

With respect to the issue of workers at Saginaw working on company imports, there is no basis for certification when the workers' firm did not manufacture the imported equipment during the time period applicable to the petition and when the workers employment is dependent on the continued importation of the equipment. The Department's survey of major customers accounted for over 100 percent of the subject firm's 1987 sales decline. The survey revealed that APV's customers did not import competitive products and had declining purchases of the imported equipment finished at Saginaw. Also, the motors and controls were produced domestically and their mounting operations were not transferred overseas. Accordingly, the investigation findings show that the Department's survey supports its negative determination.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of APV Chemical Machinery, Saginaw, Michigan.

Signed at Washington, DC, this 30th day of October 1989.

Stephen A. Wander,

Deputy Director, Office of Legislation and Acturial Services, UIS.

[FR Doc. 89–26419 Filed 11–8–89; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; ARCO Oil & Gas Co. et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1989.

Interested persons are invited to submit written comments regarding the

subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 30th day of October 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers-Firm)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
ARCO Oil & Gas Co./Southern Reg. (OCAW!U)	Selma City, TX	10/30/89	10/13/89	23,540	Oil & Gas
American Carco (Workers)	Dayton, OH	10/30/89	10/17/89	23,541	Plastic & Electro Plated Auto Components
Atlas/Soundolier Div. (EWI)	DeSoto, MO	10/30/89	10/11/89	23,542	Sound System Components
Bass Enterprises Production Co. (Workers)	Denver, CO	10/30/89	10/19/89	23,543	Oil & Gas
Big D Equipment Co. (Company)	Midland, TX	10/30/89	10/16/89	23,544	Rental of Pumps, Generators, Etc.
CRL Components (Workers)	Fort Dodge, IA	10/30/89	10/22/89	23,545	Electromechanical Switches Potentiometers
Charro Sportswear, Inc. (KWU)	Westbury, NY	10/30/89	10/10/89	23,546	Ladies' Swimwear
Cipher Data Products/Irwin Products Group (Company).	Ann Arbor, MI	10/30/89	10/19/89	23,547	Magnetic Tape Drive Systems
Classic Frames, Inc. (Company)	N. Brunswick, NJ	10/30/89	10/11/89	23,548	Picture Frames
Crystal Brands, Inc. (ILGWU)	Ashton, PA	10/30/89	10/16/89	23,549	Ladies' Sportswear
E.W. Bliss (Workers)	Hastings, MI	10/30/89	10/14/89	23,550	Metal Stamping Presses
General Auto Speciality (Company)	N. Brunswick, NJ	10/30/89	10/19/89	23,551	Automotive Switches
Handy & Harman (Workers)	Dover, OH	10/30/89	10/10/89	23,552	Auto Parts
Helicopter Systems, Inc. (Workers)	Scottdale, PA	10/30/89	10/5/89	23,553	
Input/Output Incorp. (Workers)	Stafford, TX	10/30/89	8/26/89	23,554	Seismic Survey Systems & Peripheral Devices
Laminating Corp. of America (Workers)	Eatontown, NJ	10/30/89	10/6/89	23,555	Wallcoverings
Milmac, Inc. (Workers)	Houlton, ME	10/30/89	10/16/89	23,556	Cedar Fencing
N. American Textile, Inc. (Company)	Covington, VA	10/30/89	8/28/89	23,557	Window Valances
Olin Hunt Specialty Products, Inc. (Workers)	Limerock, RI	10/30/89	10/19/89	23,558	Industrial Chemicals
Ottenheimer & Co. (Workers)	Meta, MO	10/30/89	10/12/89	23,559	Coats & Smocks
Prestalite Wire Corp. (AIWA)	Port Huron, MI	10/30/89	10/18/89	23,556	Automotive Wire & Battery Cable
Republic Electronics (Workers)	Paterson, NJ	10/30/89	10/13/89	23,561	Ceramic Capacitors
SKW Alloys (USW)	Niagara Falls, NY	10/30/89	10/9/89	23,562	Silicon/Iron Alloys
Stolzenbach Coal Gauging Co. (Workers)	Pittsburgh, PA	10/30/89	10/12/89	23,563	Weighing of Raw Material
U.R.I., Inc. (Workers)	Kingsville, TX	10/30/89	10/17/89	23,564	Uranium
Victory Optical Mfg., Co. (Company)	Newark, NJ	10/30/89	10/16/89	23,565	Ophthalmic Frames Plastic Lenses Sunglasses
Wrangler, Inc. (Company)	Belmont, MS	10/30/89	10/19/89	23,566	Denim Jackets

[FR Doc. 89-26421 Filed 11-8-89; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Fresh Pak Candy Co.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of October 1989.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,358; Fresh Pak Candy Co., Davenport, IA

TA-W-23,307; Continental Pet Technologies, Inc., Kentwood, MI

TA-W-23,326; Racal Data Communications, Inc, Racal-Milgo Div, Sunrise and Miami, FL

TA-W-23,317; Mercury Marine, Fond Du Lac, WI

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,306; Arrow Pump & Supply, Inc., Ada, OK

U.S. imports of oilfield machinery are negligible.

TA-W-23,343; Ford Electronics & Refrigeration Corp., Connersville, IN

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,310; Diversified Drilling Services, Inc., Abilene, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,261; Ka'u Agribusiness Co., Inc., Pahala, HI

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,335; Amoco Production Co., Edgewood Gas Plant, Edgewood, TX

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,258; H.T. Geophysical Corp., Denver, CO

The workers' firm does not produce an article as required for certification

under Section 222 of the Trade Act of 1974.

TA-W-23,215; Celsius Energy Co., Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,285; Celsius Energy Co., Salt Lake City, UT

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,258; H.T. Geophysical Corp., Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,259; Horizon Well Service, Woodward, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,316; Litton Panelvision, Pittsburgh, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,321; Munsingwear Men's Div., Design Dept., Minneapolis, MN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,332; Union Carbide Chemical & Plastic Co., Inc., Coatings Resins Unit, Bound Brook, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,323; Petroplex Savings Associations, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,342; E.T. Wright & Co., Inc., Rockland, MA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,333; Westpoint Pepperell, Inc., Keysville, VA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,324; Pharmacia ENI Diagnostics, Inc., Cranbury, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,350; Rio Algon Mining Corp., Moab, UT

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,308; Customized Transportation, Inc., Yardville, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,319; Monon Corp., Monon, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,344; General Motor Corp., CPC Tarrytown, North Tarrytown, NY

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-23,379; Collette Toy Novelty Co., Inc., Long Island, NY

A certification was issued covering all workers separated on or after September 5, 1988.

TA-W-23,363; Mirando Operating Co., Laredo, TX

A certification was issued covering all workers separated on or after August 21, 1988.

TA-W-23,240; Resources Drilling, Inc., Houston, TX

A certification was issued covering all workers separated on or after July 10, 1988 and before September 25, 1989.

TA-W-23,222; East Texas Pipe Service, Inc., Hughes Spring, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,346; Leadtec Utah, Pleasant Grove, UT

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1989.

TA-W-23,359; K-Lee Dress, Inc., Hammonton, NJ

A certification was issued covering all workers separated on or after July 30, 1989.

TA-W-21,935; Quarles Drilling Corp., Wheatland, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,936; Quarles Drilling Corp., Belle Chasse, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,095; Wyoming Casing Service, Inc., Gillette, WY

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,900; Maxwell Herring Drilling Corp., Tyler, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,469; Prairie Energy, Inc., Minot, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,614; Diamond Services, Corp., Morgan City, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,679; Williston Basin Sales & Services, Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,720; Forwest, Inc., Grassy Butte, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,831; Engineering & Production Service, Inc., Farmington, NM

A certification was issued covering all workers separated on or after January 1, 1987.

TA-W-21,848; Gillespie Well Service, Inc., Magnolia, AR

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,849; Gillespie Well Service, Inc., Springhill, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,689; American Standard, Wauregan, CT

A certification was issued covering all workers separated on or after September 1, 1988.

TA-W-21,728; John Flynn & Sons, Inc., Salem, MA

A certification was issued covering all workers separated on or after October 10, 1987.

TA-W-21,373; Nicor Oil & Gas Corp., Denver, CO

A certification was issued covering all workers separated on or after October 3, 1987.

TA-W-21,612; David New Drilling Co., Inc., Natchez, MS

A certification was issued covering all workers separated on or after October 1, 1985 and before March 30, 1987.

TA-W-21,842; Four States Casing, Farmington, NM

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,970; The Stone Petroleum Corp., Lafayette, LA

A certification was issued covering all workers separated on or after October 18, 1987.

TA-W-21,441; Jet Oilfield Equipment Rental & Service, Inc., Dickinson, ND

A certification was issued covering all workers separated on or after January 1, 1986.

TA-W-21,768; Tri Country Well Service, Inc., Winfield, KS

A certification was issued covering all workers separated on or after October 1, 1985 and before November 30, 1987.

TA-W-21,547; Alpha Seismic Service, Inc., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,477; Service Acid, Inc., Hays, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,061; Rich Bros. Servicing, Inc., New Castle, WY

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,766; Transco Exploration, Denver, CO

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,767; Transco Exploration Partners Limited, Houston, TX

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,407; D & S Industries, Inc., Carthage, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,580; Moranco Drilling Co., Hobbs, NM

A certification was issued covering all workers separated on or after October 1, 1985 and before July 1, 1988.

TA-W-21,542; Weatherford Oilfield Services, Moffel Road, Houma, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before August 31, 1986.

TA-W-21,285; Imco Services, Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,289; Magcobar Drilling Fluids, Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,288; MI Drilling Fluids Co., Houston, TX

A certification was issued covering all workers separated on or after January 1, 1987 and before January 1, 1988.

TA-W-21,385; Snyder Completion Services, Inc., Grayville, IL

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,365; LHR Snyder, Inc., Grayville, IL

A certification was issued covering all workers separated on or after August 1, 1986.

TA-W-21,964; Southwestern Energy Production Co., Denver, CO

A certification was issued covering all workers separated on or after October 23, 1987.

TA-W-21,965; Southwestern Energy Production Co., Oklahoma City, OK

A certification was issued covering all workers separated on or after October 23, 1987.

TA-W-21,966; Southwestern Energy Production Co., Fayetteville, AR

A certification was issued covering all workers separated on or after October 23, 1987.

TA-W-21,181; Ford Motor Co., Romeo, MI

A certification was issued covering all workers separated on or after September 20, 1987.

TA-W-21,070; Clint Hart Drilling & Asssociates, Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before September 30, 1987.

TA-W-21,105; Glendel Drilling, Abbeville, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,259; Bethela, Inc., Ripley, WV

A certification was issued covering all workers separated on or after October 1, 1985 and before October 1, 1988.

TA-W-21,062; Big Spring Drilling, Wichita, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,058; Ponderosa Co., Casper, WY

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1986.

TA-W-21,210; North American Oil & Gas, Inc., Austin, TX

A certification was issued covering all workers separated on or after September 18, 1987 and before December 31, 1988.

TA-W-22,062; Rio Lucy Manufacturing Co., Broadway, NY

A certification was issued covering all workers separated on or after September 7, 1987 and before August 30, 1988.

TA-W-22,024; DAMAC Drilling, Inc., Great Bend, KS

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,946; Roll'n Alaska, Inc., Anchorage, AK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,729; Key Well Service, Indiana, PA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,692; B & G Roustabout Service, Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,947; Rosamond Drilling, Houston, TX & Various Locations in The Following States:

TA-W-21,947A LA
TA-W-21,947B MS
TA-W-21,280C TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,122; Davis Mud & Chemical, Inc., Mills, WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,984; Tooke International, Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,294; Miura Petroleum, Inc., Chanute, KS

A certification was issued covering all workers separated on or after December 8, 1987.

TA-W-21,733; Little Falls Footwear, Inc., St. Johnsville, NY

A certification was issued covering all workers separated on or after October 13, 1987.

TA-W-21,711; Deltaus Corp., Tyler, TX & Operating in Various Locations in The Following States

TA-W-21,711A LA
TA-W-21,711B PA
TA-W-21,711C TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,721; Front Royal Garment, Front Royal, VA

A certification was issued covering all workers separated on or after November 3, 1987 and before December 28, 1988.

TA-W-22,324; The Lee Apparel Co., Inc., Lenexa, KS

A certification was issued covering all workers separated on or after December 12, 1987.

TA-W-22,299; Pancho's Backhoe Service, Seminole, TX

A certification was issued covering all workers separated on or after November 30, 1987 and before June 1, 1989.

TA-W-22,292 and TA-W-22,293; Martin Oil and Gas Co., Houston, TX and Phoenix, AZ

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,270; Athenia Audio/Disc Corp., Toms River, NJ

A certification was issued covering all workers separated on or after December 6, 1987.

TA-W-21,795; Beevers Well Service, Inc., Louann, AR

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,022; Consolidated Resources of America, Inc., Cincinnati, OH

A certification was issued covering all workers separated on or after January 1, 1986.

TA-W-22,078; Teledyne Amco, Mohnton, PA

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,638; Loeffler Oil Corp., Allendale, IL

A certification was issued covering all workers separated on or after October 21, 1987.

TA-W-21,816; Coleman Drilling Co., Farmington, NM

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,534; Sedco Forex/ Schlumberger Continental United States, Dallas, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,613; Denton Oil Well Cementing Co., Artesia, NM

A certification was issued covering all workers separated on or after September 1, 1988 and before November 30, 1988.

TA-W-21,640; Louis Industries, Inc., Aguadilla, PR

A certification was issued covering all workers separated on or after October 21, 1987 and before March 31, 1988.

TA-W-21,533; Santa Fe Drilling Co., Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,576; Louson Knitting Mill, Philadelphia PA

A certification was issued covering all workers separated on or after October 18, 1987.

TA-W-21,117; Mansfield Apparel Co., Inc., Texas Avenue, Mansfield, LA

A certification was issued covering all workers separated on or after September 12, 1987 and before October 9, 1988.

TA-W-21,118; Mansfield Apparel Co., Inc., Franklin & Washington Street, Mansfield, LA

A certification was issued covering all workers separated on or after September 12, 1987 and before October 9, 1988.

TA-W-21,999; Western Oceanic, Inc., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,722; Guardian Inspection Service, Inc., Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1989.

TA-W-21,918; Ocean Drilling and Exploration Co., New Orleans, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1986.

TA-W-21,992; Van Drill, Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985 and before July 1, 1987.

TA-W-22,077; Taylor Drilling Co., Olney, IL

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,977; TOT Drilling Corp., Odessa, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,977A; TOT Drilling Corp., Odessa, TX Operating at Various Locations in The State of New Mexico

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

I hereby certify that the aforementioned determinations were issued during the month of October 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC. 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: October 31, 1989.

Marvin M. Fooks

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-26422 Filed 11-8-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-23,206]

Newman Crosby Steel, Inc., Pawtucket, RI; Negative Determination Regarding Application for Reconsideration

By an application dated October 11, 1989, Local # 3333 of the United Steelworkers of America (USW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 19, 1989 and published in the Federal Register on October 3, 1989 (54 FR 40755).

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 USW claims that articles produced by Newman Crosby Steel's customers e.g., saw blades, knife blades, bushings, automobile timing chains etc. are being imported to such a degree that it has adversely affected employment at Newman Crosby Steel.

Investigation findings show that Newman Crosby Steel purchased imported and domestic cold rolled strip and processed it into different hardnesses, lengths and widths for its customers.

The Department's denial was based on the fact that U.S. aggregate imports of cold rolled carbon steel strip declined absolutely and relative to domestic shipments in 1988 compared to 1987 and in the first four months of 1989 compared to the same period in 1988.

Under the Trade Act of 1974, only increased imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision can be considered. Saw blades, knife blades, bushings, automobile timing chains and

other finished articles incorporating cold rolled carbon steel strip are not like or directly competitive with cold rolled carbon steel strip. This issue was addressed in *United Shoe Workers of America, AFL–CIO* v. *Bedell*, 506 F2d 174, (D.C. Cir. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, cold rolled carbon steel strip cannot be considered like or directly competitive with finished articles made from cold rolled carbon steel strip.

Conclusion

After review of the application and investigations, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 25th day of October 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–26417 Filed 11–8–89; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23,122]

Santa Fe Energy Co., Amarillo, TX; Negative Determination on Reconsideration

On October 25, 1989, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Santa Fe Energy, Amarillo, Texas.

The former workers stated that the Department should have compared revenues for the years 1987 and 1988 instead of the first five months of 1989 compared to the same period in 1988. The former workers also stated that they were certified earlier under TA–W–17,731 and should be reconsidered for benefits under the Trade Act as amended by the Omnibus Trade and Competitiveness Act (OTCA) of 1988.

The investigation findings show that the Amarillo facility serviced the other facilities of Santa Fe which produced crude oil and natural gas. The Amarillo facility encompassed an accounting function, corporate records, a data processing center and land administration. Although the Amarillo service workers were certified eligible to apply for adjustment assistance under TA–W–17,731 which expired on November 7, 1988 that certification would not act as a precedent for the certification of workers in 1989. The conditions necessary for certification of the Amarillo workers were much different in 1988 when TA–W–17,731 was issued than they are today. Each worker petition must be judged on its own merits and in the time period in which it was filed. The Amarillo workers were included by an amendment to a certification for workers of Santa Fe's Midland facility (TA–W–17,731) because a substantial portion of Amarillo's decreased activities in 1985 and 1986 resulted from decreased production and sales and employment at Midland which produced crude oil and natural gas. These conditions no longer exist.

The Department's denial on the instant petition was based on the fact that customers of Santa Fe Energy did not import crude oil or natural gas. The findings also showed that corporate revenues increased during the first five months of 1989 compared to the first five months of 1988.

The investigation findings showed that no articles within the meaning of Section 222(3) of the Trade Act, were produced at the Amarillo facility. The Department has consistently determined that the performance of services does not constitute an article, as required by Section 222 of the Act and this determination has been upheld in the U.S. Court of Appeals.

In order for service workers like those at Amarillo to become certified eligible for adjustment assistance their separations must be caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions have not been met for workers at Amarillo. Workers at Santa Fe's production facilities serviced by Amarillo are not currently certified eligible to apply for adjustment assistance.

The service provisions of OTCA apply only to workers of service firms who are engaged in the exploration or drilling for crude oil or natural gas for unaffiliated clients in the oil and gas industry. These provisions do not apply to workers of Santa Fe Energy because Santa Fe is a producer of oil and not a service firm and the services performed at Amarillo are not those which would form a basis for certification under OTCA.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to former workers of Santa Fe Energy Company, Amarillo, Texas.

Signed at Washington, DC, this 30th day of October 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–26420 Filed 11–8–89; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–23, 194]

United Auto Workers Local Number 558, Willow Springs, IL; Negative Determination Regarding Application for Reconsideration

By an application dated October 16, 1989 Local #558 of the United Auto Workers (UAW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 19, 1989 and published in the Federal Register on October 3, 1989 (54 FR 40755).

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 union claims that the Department is inconsistent in its determinations by certifying all workers at the BOC Chicago plant including support and service workers at UAW. The union also directs the Department's attention to its own General Administration Letter (GAL) No. 6–88.

The investigation findings reveal that the subject firm (the union) performs administrative functions and does not produce an article within the meaning of Section 222(3) of the Act. The Department has consistently determined that the performance of service does not constitute an article, as required by Section 222 of the Act and this determination has been upheld in the U.S. Court of Appeals. This issue was addressed in the Department's initial negative determination issued on September 19, 1989.

Service workers at GM BOC Chicago are eligible to apply for adjustment assistance since there was a reduced

demand for their services by the workers' firm (GM BOC Chicago) whose workers meet all the statutory criteria for certification. However, the workers' firm in the instant case is the UAW not GM. The union has control over its own hiring and firing. All payroll transactions and personnel actions are controlled by the union. Accordingly, the Department sees no inconsistency in its determinations.

The purpose of GAL 6–88 was to inform the State Employment Security Agencies of a new group of workers who may qualify for TAA benefits. The service provisions of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) apply only to workers of service firms who are engaged in the exploration or drilling for crude oil or natural gas for unaffiliated clients in the oil and gas industry. These provisions do not apply to service workers in other industries. Accordingly, the services performed by the UAW are not those which would form a basis for certification under OTCA.

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 of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 31st day of October 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–26418 Filed 11–8–89; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Revised System of Records.

SUMMARY: The National Archives and Records Administration (NARA) is proposing to alter the system of records NARA–1, Researcher Application Files. This notice is a clarification of the Notice of Revised System of Records for NARA–1 which was published in the Federal Register of September 20, 1989 (54 FR 38756). It has been revised pursuant to comments NARA received from the Office of Management and Budget. The specific changes to this notice are set forth in the Supplementary Information section.

DATES: Written comments on the proposed altered system NARA–1 should be received by December 11, 1989. All other changes to the systems will be effective on December 11, 1989. NARA filed a revised Altered System Report with the Congress and the Office of Management and Budget on November 1, 1989. The proposed altered system shall be effective without further notice on January 2, 1990, unless comments are received which would result in a contrary determination.

ADDRESS: Comments on the proposed altered system should be addressed to John A. Constance, Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John A. Constance or Laurence Patlen, Policy and Program Analysis Divison (NAA), National Archives and Records Administration, Washington, DC 20408. Telephone (202) 523–3214 or (FTS) 523–3214.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular A–130, an Altered System Report for NARA–1, Researcher Application Files, was submitted on September 13, 1989 to the Congress and OMB. Based OMB's comments on this report, the Altered System Report for NARA–1 was revised and resubmitted to the Congress and OMB on November 1, 1989. NARA has extended the public comment period and effective date of the revision to the system.

The system is to be amended by adding an electronic database which will serve as an index to the files, provided NARA with statistical data relating to researcher use at the National Archives, and facilitate the preparation of mailing lists. This information will be used by NARA to compile statistical reports and to study research use of NARA facilities. This modification constitutes a change in the computer environment. Accordingly, NARA is modifying the categories of records, routine uses (including the purposes of such uses), storage, retrievability, safeguards, and retention and disposal sections of the NARA–1 notice. The routine use statement is expanded to describe the purposes of the electronic database, and (in response to OMB comments) to clarify the purposes of the existing routine uses. No new routine use disclosures outside of NARA are proposed. Safeguards are being established to counteract any increase in the potential for unauthorized access to the system.

Also, in response to comments from OMB, the categories of individuals covered by the system and categories of records sections are being revised for clarification. Minor administrative changes are being made to NARA–1, as detailed in the September 20, 1989 notice (54 FR 38756).

The amended system notice is set forth in its entirety below. NARA previously published the NARA–1 system and appendixes containing the general routine uses and addresses of locations applicable to all NARA systems in the Federal Register of May 9, 1989 (54 FR 19970).

NARA 1

SYSTEM NAME:

Researcher Application Files.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, the Regional Archives, and except for the electronic database, the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any member of the general public who applies to use original records in the National Archives, the Regional Archives, and the Presidential Libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications to use records including the individual's name, address, telephone number, occupation, research topic, educational level, and field of interest. At the National Archives Building and the Regional Archives, the system includes an electronic database containing the information from applications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2203(f)(1), and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by NARA employees in the Office of the National Archives (including the Regional Archives) and the Presidential Libraries to register individuals who apply to use original records for research at a NARA facility; to record initial research interests of researchers; to determine which records the individual should use; to provide a means of contacting the individual if additional information of research interest to him or her is found, or if problems with the records are

discovered; and to mail notices of events and programs of interest to users of the records. Information in the electronic database will be used by staff of the Office of National Archives (and the Regional Archives) as a finding aid, to compile statistical reports regarding researcher use of records, and to facilitate the preparation of mailing lists. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and floppy disks.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual, except that at the National Archives Building and the Regional Archives records may be filed numerically by researcher card number and accessed through the electronic database.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. The electronic database maintained by the Office of the National Archives operates on a non-networked computer accessible only to NARA employees via passwords on terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Paper records, including (if necessary) a printout indexed by researcher name, are cut off annually, held one year, and retired. They are destroyed when 25 years old. Electronically stored records are cut off when two years old, then maintained on a backup disk and deleted one year later. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials with responsiblity for this geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of the Presidential libraries, and the directors of the Regional Archives. The system manager for the electronic database is the Assistant Archivist for the National Archives. The addresses for these locations are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records.

RECORD ACCESS PROCEDURE:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, or the directors of the Regional Archives, depending on where individuals have used records. In-person requests may be made during business hours listed for each location in the appendix following the NARA Notices. For written requests, the individual should provide full name, address, and telephone number, the approximate dates records were used. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Researchers.

Dated: November 1, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89-26473 Filed 11-8-89; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

Advisory Panel Meeting; Arts in Education

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Arts in Education Advisory Board Panel (State Arts in Education Grants Section) to the National Council on the Arts will be held on

December 4, 1989, 8:15 a.m.-7:30 p.m.
December 5, 8:15 a.m.-5:00 p.m.
December 6, 8:15 a.m.-4:30 p.m.

in room M09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on December 6, 1989, from 1:00 p.m.-4:00 p.m. The topic for discussion will be FY 1991 guidelines.

The remaining portions of this meeting on

December 4, 8:15 a.m.-7:30 p.m.
December 5, 8:15 a.m.-5:00 p.m.
December 6, 8:15 a.m.-1:00 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 published in the Federal Register of February 13, 1980, 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.

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, 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: October 31, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-26474 Filed 11-8-89; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget Review (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: Data Report on Spouse.

3. The form number if applicable: NRC Form 354.

4. How often the collection is required: As needed.

5. Who will be required or asked to report: NRC employees, NRC contractor, and NRC licensee access authorization applicants who are married to non-U.S. citizens; marry after completing NRC's Personnel Security Forms; or marry after having been granted an NRC access authorization or employment clearance.

6. An estimate of the number of responses: 88.

7. An estimate of the total number of hours needed to complete the requirement or request: 22 (.25 hours per response).

8. An indication of whether section 3504(h), Public Law 96–511 applies: Not applicable.

9. Abstract: The NRC Form 354 is completed by NRC contractors, licensee applicants, and employee applicants who are married to non-U.S. citizens; marry after submission of the Personnel Security Forms, or after receiving an access authorization or employment clearance.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150–0026), Office of Management and Budget, Washington, DC 2503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this first day of November 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 89–26440 Filed 11–8–89; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the OMB for review the following for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision or extension: Extension

2. The title of the information collection: 10 CFR Part 100, Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants"

3. The form number is applicable: Not applicable

4. How often the collection is required: As necessary in order for NRC to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power plants constructed and licensed in accordance with 10 CFR Part 50, and the Atomic Energy Act of 1954, as amended (the Act).

5. Who will be required or asked to report: Licensees for nuclear power plants.

6. An estimate of the number of respondents: 3 annually

7. An estimate of the annual average burden hours per response: 16,666

8. An estimate of the total number of hours needed annually to complete the requirement: 50,000

9. An indication of whether section 3504(h), Public Law 9696–511 applies: Not applicable.

10. Abstract: The regulations require utilities that propose to build and operate nuclear power plants to design, construct, and maintain those plants to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment.

ADDRESS: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer, Nicolas B. Garcia, Paperwork Reduction Project (3150–0093), Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone (202) 395–3084.

NRC Clearance Officer is Brenda J. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 1st day of November 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 89–26441 Filed 11–8–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–19660 License No. 21–21010–01 EA 89–098]

Photon Field Inspection, Inc.; Order Imposing Civil Monetary Penalty

I

Photon Field Inspection, Inc. (the licensee) 1705 Boxwood Saginaw, MI 48601, is the holder of Byproduct Material License No. 21–21010–01 issued by the Nuclear Regulatory Commission (NRC/Commission). The license authorizes the use of byproduct material to perform industrial radiography. The license was originally issued on September 15, 1982 and expired on September 30, 1987. A timely renewal application was filed as of August 31, 1987, and the renewal is pending.

II

An inspection of the licensee's activities was conducted on April 6, 1989, at the licensee's facility in Saginaw, Michigan. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 7, 1989. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) by letters received by the NRC Region III office on July 27 and August 11, 1989. In its response, the licensee denied Violations B.2 and C and did not deny the remaining six violations. In addition, the licensee requested a reduction in the Severity Level and a reduction in the proposed civil penalty.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that Violations B.2 and C require further evaluation by the NRC staff and therefore are being withheld from this escalated enforcement action at this time. The staff has also determined that the remaining six violations occurred as stated. After considering that: (1) The civil penalty was assessed equally among the eight violations, and (2) Violations B.2 and C constitute 25 percent of the violations, the amount of the civil penalty has been reduced by

$1,875 and a $5,625 civil penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The licensee pay a civil penalty in the amount of $5,625 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to the Regional Administrator, Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, with the exception of Violations B.2 and C.; and

(b) Whether, on the basis of the violations, this Order should be sustained.

Dated at Rockville, Maryland, this 30th day of October 1989.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

Appendix—Evaluations and Conclusions

On June 7, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued to Photon Field Inspection, Inc. (licensee) for violations identified during a routine NRC inspection. The licensee responded to the Notice in two documents received by the Region III office on July 27 and August 11, 1989. In its response, the licensee denies Violations B.2 and C, and offers reasons why the Severity Level of all the violations should be reduced and why the civil penalty should not be imposed. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

I. Restatements of Violations, Summary of Licensee's Response and NRC Evaluation of Licensee's Response

Restatement of Violation A

License Condition No. 10 limits storage of licensed material to a facility located at 300 Ames Street, Saginaw, Michigan

Contrary to the above, as of April 6, 1989, the licensee has stored licensed material at location other than that authorized by the license. Specifically, the licensee relocated its radiographic facility from 300 Ames Street, Saginaw, Michigan to 1705 Boxwood, Saginaw, Michigan in January 1989, has stored licensed material at that site since January 1989, and failed to inform the NRC and obtain approval prior to the move.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation B

License Condition No. 16 requires, in part, that the licensee conduct its program in accordance with the statements, representations, and procedures contained in the reference application and certain listed documents, and any enclosures thereto.

The licensee's referenced application, which was amended July 1, 1982, transmitted to NRC as an enclosure a revised Administrative Manual.

Subitem B.1

Section 8.D of this manual requires, in part, that periodic training be given by the Radiation Safety Officer to update radiographic personnel at least every 12 months and that the training be followed by a written and oral quiz.

Contrary to the above, as of April 6, 1989, the sole radiographer employed by the licensee had not been provided any periodic training and had not been given a written and oral quiz during the last twelve months.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Subitem B.2

Section 9.B of this manual requires, in part, that a quarterly management audit be conducted in accordance with Form 6 of Appendix 1, which includes audits of various records such as inventory, instrument calibration, and receipt and disposal records.

Contrary to the above, since October 5, 1988, the licensee has not conducted any management audits of records such as inventory, instrument calibration, and receipt and disposal records.

This is a repeat violation.

Summary of Licensee's Response

The licensee denied this part of the violation and stated that management audits have been conducted since October 5, 1988. The licensee stated that after review of all files related to radiography, a record of a quarterly management audit accomplished on January 3, 1989 was located. The licensee stated further that this record was not available during the inspection due to the unavoidable absence of the Radiation Safety Officer and the lack of knowledge as to the whereabouts of all records on the part of the technician who represented the licensee during the inspection.

NRC Evaluation of Licensee's Response

The NRC is continuing to evaluate the licensee's response to this violation. The licensee will be notified by separate correspondence of the NRC's conclusion regarding this violation and the licensee's response.

Restatement of Violation C

10 CFR 34.26 requires, in part, that the licensee conduct a quarterly physical inventory to account for all sealed sources received and possessed under the license. The records of the inventories shall also include the quantities of byproduct material.

Contrary to the above, between October 5, 1988 and April 6, 1989, the licensee failed to conduct a quarterly inventory of all sealed sources as required. In addition, the quantities of iridium-192 and cobalt-60 listed in 1988 quarterly inventory records are incorrect in that they did not correspond to source manufacturer decay information or NRC calculated values.

This is a repeat violation.

Summary of Licensee's Response

The licensee denied the part of the violation that stated no quarterly inventories were conducted between October 5, 1988 and April 6, 1989. The licensee stated that after reviewing all files related to radiography, a record of a quarterly physical inventory accomplished on January 3, 1989 was located. The licensee stated further that this record was not available during the inspection due to the unavoidable absence of the Radiation Safety Officer and the lack of knowledge as to the whereabouts of all records on the part of the technician who represented the licensee during the inspection.

The licensee further stated that the source activity is not a requirement for quarterly inventory as per 10 CFR 34.26. The licensee claims that the quantity of material

possessed is the requirement and, therefore, has instructed licensee staff when conducting inventories to record the quantity of material (i.e., number of sources) possessed rather than activity.

NRC Evaluation of Licensee's Response

The NRC is continuing to evaluate that part of the licensee's response to this violation which asserts that inventories were conducted. The licensee will be notified by separate correspondence of the NRC's conclusion regarding this part of the violation.

NRC disagrees with the licensee's interpretation that the word "quantities" in the phrase in 10 CFR 34.26 "quantities and kinds of byproduct material" refers only to the number of sources. An inventory record must be complete and accurate as to the description of the sealed sources being accounted for in the inventory. This is especially true to inventory records required by 10 CFR 34.26 because the radionuclide of choice in the majority of these sealed sources is iridium-192. Iridium-192 has a physical half-life of approximately 74 days, which necessitates exchanging a decayed source for a source of higher activity at a frequency of 2-5 times per year. Without a record of the activity of each source the "quantity" of iridium-192 cannot be determined. Therefore, the word "quantities" in the phrase "quantities and kinds of byproduct material" as stated in 10 CFR 34.26 should be interpreted to include the number of sources, the activity of each source at the time of inventory or on a specified assay date, and the serial number of each source. In addition, the licensee's example quarterly inventory form, submitted as attachment No. 4 in its response dated July 26, 1989, clearly indicates that the activity of the source in curies, is part of the information required to be recorded.

Restatement of Violation D

10 CFR 34.24 requires, in part, that each survey instrument used to conduct physical radiation surveys be calibrated at intervals not to exceed three months.

Contrary to the above, on July 5, 1988, more than three months after calibration, the licensee conducted physical radiation surveys with two survey instruments which were last calibrated on March 16, 1988.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation E

10 CFR 34.25(b) requires, in part, that sealed sources be tested for leakage at intervals not to exceed six months.

License Condition No. 12.B exempts the licensee from the requirements of 10 CFR 34.25(b) as to radiography sources which are in storage and not being used. Since sources must be tested for leakage prior to any use or transfer unless they have been leak tested within six months prior to the date of use or transfer.

Contrary to the above, an iridium-192 sealed radiographic source, last leak tested on October 9, 1987, was removed from storage and used for radiography on ten occasions between April 14 and June 23, 1988, and transferrd to the source manufacturer in July 1988. Prior to such use and transfer, the sources had not been leak tested within the previous six months.

Summary of Licensee's Response

The licensee does not deny the violation.

NRS Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation F

10 CFR 71.5(a) prohibits transport of licensed material outside the confines of a plant or other place of use, or delivery of licensed material to a carrier for transport unless the licensee complies with applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR parts 170 through 189. 49 CFR 172.200–202 requires each person who transports hazardous material to describe the material on a shipping paper. 49 CFR 172.203(d) describes the required additional shipping paper entries for radioactive materials.

Contrary to the above, in January 1989, the licensee transported curie quantities of radioactive material from its Ames Street facility to its Boxwood Street facility and failed to complete any shipping papers.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation G

10 CFR 30.51 (a) and (c)(1) require, in part, that persons who receive byproduct material pursuant to a license issued pursuant to Part 34 keep records showing the receipt of such byproduct material as long as the material is in their possession.

Contrary to the above, a record of receipt of byproduct material (cobalt-60 sealed source) received in approximately 1983 and currently in the possession of the licensee was not maintained.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

II. Licensee's Request for Reduction in Severity Level and Reduction of Proposed Civil Penalty

Licensee's Request

The licensee protests the classification of Items D, E, and F as Severity Level III violations. It states that Severity Level III is unwarranted since no personnel were injured or overexposed due to radiation and that Items D, E, and F are violations of a "paperwork nature" only.

NRC Evaluation

The licensee is correct insofar as no personnel were injured or overexposed due to radiation, but is incorrect in assuming Items D, E, and F are each a Severity Level III violation. The Notice of Violation and Proposed Imposition of Civil Penalty clearly states that "these violations have been categorized *in the aggregate* as a Severity Level III problem (Supplement VI)." Separate severity levels have not been assigned to the individual violations in this case. The NRC enforcement policy, as delineated in 10 CFR part 2, Appendix C, section II.B.III, provides that violations may be evaluated in the aggregate and a single severity level assigned for a group of violations. 10 CFR part 2, Appendix C, Supplement VI(c)(8), states that Severity Level III can apply if there is:

Breakdown in the control of licensed activities involving a number of violations that are related or, if isolated, that are recurring violations that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities.

The licensee is also incorrect in asserting that Items D, E, and F are violations of a "paperwork nature" only. Item D is a violation concerning the use of a survey instrument which had not been tested for calibration at the proper frequency and Item E is a violation concerning the use of a sealed source overdue for leak testing. These items address the licensee's failure to perform certain required tasks within a specified time interval and are not "paperwork" violations. Item F is a violation concerning the lack of proper shipping papers during the transport of sealed sources of radioactive material. This violation could be viewed as a "paperwork" violation; nevertheless, the requirement to have shipping papers during the transportation of radioactive materials is one of significance. Shipping papers are essential for regulatory agencies and for emergency response personnel who may be responding to an accident involving a vehicle carrying radioactive material to ensure that hazards are correctly identified and controlled.

III. NRC Conclusion

After reviewing the licensee's response to the Notice, the NRC has concluded that the violations were properly categorized in the aggregate at Severity Level III. The licensee has not provided a basis for mitigation of the proposed civil penalty. The NRC is continuing its evaluation of Violations B.2 and C, which the licensee has denied, and both of these violations have been withheld from this enforcement action pending completion of this review. The licensee will be notified by separate correspondence of the NRC's conclusion regarding Violations B.2 and C.

Since Violations B.2 and C constitute 25 percent of the 8 cited violations, we have determined that the $7,500 civil penalty should be reduced by $1,875 to $5,626.

[FR Doc. 89–26442 Filed 11–8–89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

List of Designated Federal Entities and Federal Entities

Public Law 100-504, "The Inspector General Act Amendments of 1988", requires the Office of Management and Budget to publish a list of "Designated Federal Entities" and "Federal Entities" and the heads of such entities. Designated Federal Entities were required to establish an Office of Inspector General before April 17, 1989. Federal Entities are required to report annually to each House of the Congress and the Office of Management and Budget on audit and investigative activities in their organizations.

The attached list was prepared in consultation with the U.S. General Accounting Office.

Frank Hodsoll,

Executive Associate Director.

Designated Federal Entities

1. Action—Director
2. Amtrak—Chairman
3. Appalachian Regional Commission—Federal Co-Chairman
4. The Board of Governors, Federal Reserve System—Chairman
5. Board for International Broadcasting—Chairman
6. Commodity Futures Trading Commission—Chairman
7. Consumer Product Safety Commission—Chairman
8. Corporation for Public Broadcasting—Board of Directors
9. Equal Employment Opportunity Commission—Chairman
10. Farm Credit Administration—Chairman
11. Federal Communications Commission—Chairman
12. Federal Deposit Insurance Corporation—Chairman
13. Federal Election Commission—Chairman
14. Federal Home Loan Bank Board—Chairman
15. Federal Labor Relations Authority—Chairman
16. Federal Maritime Commission—Chairman
17. Federal Trade Commission—Chairman
18. Interstate Commerce Commission—Chairman
19. Legal Services Corporation—President
20. National Archives and Records Administration—Archivist of the United States
21. National Credit Union Administration—Board of Directors
22. National Endowment for the Arts—Chairman
23. National Endowment for the Humanities—Chairman
24. National Labor Relations Board—Chairman
25. National Science Foundation—National Science Board
26. Panama Canal Commission—Chairman
27. Peace Corps—Director
28. Pension Benefit Guaranty Corporation—Executive Director
29. Securities and Exchange Commission—Chairman
30. Smithsonian Institution—Secretary
31. Tennessee Valley Authority—Board of Directors
32. United States International Trade Commission—Chairman
33. United States Postal Service—Postmaster General

Federal Entities

1. Administrative Conference of the United States—Chairman
2. Advisory Committee on Federal Pay—Chairman
3. Advisory Commission on Intergovernmental Relations—Chairman
4. Advisory Council on Historic Preservation—Chairman
5. African Development Foundation—Chairman
6. Alaskan Natural Gas Transportation System, Office of the Federal Inspector—Federal Inspector
7. American Battle Monuments Commission—Chairman
8. Architectural and Transportation Barriers Compliance Board—Chairman
9. Arms Control and Disarmament Agency—Director
10. Barry Goldwater Scholarship and Excellence in Education Foundation—Chairman
11. Christopher Columbus Quincentenary Jubilee Commission—Chairman
12. Commission for Purchase from the Blind and other Severely Handicapped—Chairman
13. Commission for the Study of International Migration and Cooperative Economic Development—Chairman
14. Commission of Fine Arts—Chairman
15. Commission on the Bicentennial of the United States Constitution—Chairman
16. Commission on Civil Rights—Chairman
17. Delaware River Basin—Commission—U.S. Commissioner
18. Export-Import Bank—President and Chairman
19. Federal Mediation and Conciliation Service—Director
20. Federal Mine Safety and Health Review Commission—Chairman
21. Federal Retirement Thrift Investment Board—Chairman
22. Franklin D. Roosevelt Memorial Commission—Chairman
23. Harry S. Truman Scholarship Foundation—Chairman
24. Illinois and Michigan Canal National Heritage Corridor Commission—Chairman
25. Institute of American Indian and Alaska Native Culture and Arts Development—Chairman
26. Institute of Museum Services—Director
27. Intelligence Community Staff—Director CIA
28. Inter-American Foundation—Chairman
29. Interstate Commission on the Potomac River Basin—Chairman
30. James Madison Memorial Fellowship Foundation—Chairman
31. Japan-U.S. Friendship Commission—Chairman
32. Marine Mammal Commission—Chairman
33. Merit Systems Protection Board—Chairman
34. Office of the Special Council—Special Council
35. National Afro-American History Commission—Chairman
36. National Capital Planning Commission—Chairman
37. National Commission for Employment Policy—Chairman
38. National Commission on Libraries and Information Science—Chairman
39. National Commission on Migrant Education—Chairman
40. National Commission on Responsibility for Financing Postsecondary Education—Chairman
41. National Council on the Handicapped—Chairman
42. National Endowment for Democracy—President
43. National Gallery of Art—Board of Trustees
44. National Institute of Building Sciences—Chairman
45. National Mediation Board—Chairman
46. National Transportation Safety Board—Chairman
47. Navajo-Hopi Relocation Commission—Chairman
48. Neighborhood Reinvestment Corporation—Chairman
49. Occupational Safety and Health Review Commission—Chairman
50. Offices of Independent Counsels—Independent Counsels

51. Overseas Private Investment Corporation—President
52. Pennsylvania Avenue Development Corporation—Chairman
53. Postal Rate Commission—Chairman
54. Selective Service System—Director
55. State Justice Institute—Director
56. Susquehanna River Basin Commission—U.S. Commissioner
57. U.S. Holocaust Memorial Commission—Chairman
58. U.S. Institute for Peace—Chairman
59. U.S. International Cultural and Trade Center Commission—President
60. U.S. Soldier's and Airman's Home—Governor
61. Washington Metropolitan Transit Authority—General Manager
62. Woodrow Wilson International Center for Scholars—Board of Trustees

[FR Doc. 89-26471 Filed 11-8-89; 8:45 am]
BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Portland, will hold a public meeting at 10:00 a.m. on Wednesday, November 29, 1989, at Lane Community College, 1059 Willamette Street, Eugene, Oregon, 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 John L. Gilman, District Director, U.S. Small Business Administration, 222 S.W. Columbia, Suite 500, Portland, Oregon 97201-6605, phone (503) 326-5221.

Dated November 3, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-26359 Filed 11-8-89; 8:45 am]
BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, will hold a public meeting beginning Thursday, November 30, 1989, at 1:00 p.m. and ending on Friday, December 1, 1989, at 12:00 noon, at the Best Western Leisure Inn, Martinsburg, West Virginia, 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 Marvin P. Shelton, District Director, U.S. Small Business Administration, P.O. Box 1608, Clarksburg, West Virginia 26302-1608, phone (304) 623-5631.

Dated: November 3, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-26360 Filed 11-8-89; 8:45 am]
BILLING CODE 8025-01-M

Region X Advisory Council Public Meeting; Change in Date of Scheduled Meeting

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, has changed the date for its public meeting from Thursday, November 9, 1989, to Thursday, November 30, 1989, at 10:00 a.m., in Conference Room B101, Farm Credit Building, West 601 First Avenue, Spokane, Washington, 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 Robert D. Wiebe, District Director, U.S. Small Business Administration, West 601 First Avenue, 10th Floor East, Spokane, Washington 99204, phone (509) 353-2808.

Dated: November 1, 1989.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 89-26358 Filed 11-8-89; 8:45 am]
BILLING CODE 8025-01-M

[License No. 09/09-5382]

South Bay Capital Corp.; Issuance of a Small Business Investment Company License

On June 21, 1989, a notice was published in the **Federal Register** (54 FR 26131) stating that an application has been filed by South Bay Capital Corporation, Torrence, CA with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)) for a licensee as a small business investment company.

Interested parties were given until close of business July 21, 1989 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. 09/09-5382 on October 25, 1989, to South Bay Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 31, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-26361 Filed 11-8-89; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Pub. Notice CM-8/1321]

National Committee of the U.S. Organization for International Radio Consultative Committee; Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 27, 1989 at the Department of State, 2201 C Street, NW., Washington, DC. The meeting will be held in Room 1105, from 1:30 to 4:30 p.m.

The single agenda item is to consider broad aspects of the present CCIR and its future role, working methods and procedures, particularly with respect to the ITU's Review of Structure and Functioning. Mr. Richard Kirby, Director of the CCIR in Geneva, plans to participate in the meeting.

Members of the general public may attend and participate subject to instructions of the Chairman and available seating. Persons wishing to attend must contact the office of Richard Shrum, Department of State, Washington, DC; (202) 647-2592, telefax (202) 647-5957. Entrance to State Department is controlled, and attendees must use the C Street entrance. An escort will be at the main entrance to the building (22nd and C Streets) during the period 1:15-1:35 p.m. to facilitate entry.

Dated: October 31, 1989.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 89-26478 Filed 11-8-89; 8:45 am]
BILLING CODE 4710-07-M

Bureau of Diplomatic Security

Anti-Terrorism Assistance Training

In accordance with Office of Management and Budget Circular No. A-102, dated March 3, 1988, the Department of State hereby gives notice of intention to establish a cooperative

agreement for purposes of facilitating the accomplishment of the objectives of 22 U.S.C. 2349aa, et seq. Under this authority, assistance may be furnished to foreign law enforcement personnel to enhance their ability to deter terrorists and terrorist groups from engaging in international terrorist acts. The proposed agreement will encompass facilities and administrative support in conducting training under the referenced authority, and will facilitate the development of long-range plans by providing a measure of stability in the planning process.

The Department of State has identified the Louisiana State Police Academy as having the necessary capabilities to conduct the training contemplated by this agreement. This agreement contemplates annual funding of approximately $750,000, which includes amounts which normally are granted directly to the participating individuals for their room and board. Training materials provided by the Louisiana State Police and consumed in the training will be reimbursed by the Department of State. Training materials for the participants provided by the Louisiana State Police and not consumed during the training, will be reimbursed by the Department of State, and will be granted to the participants.

If additional needs are identified in the future, the Department will entertain consideration of additional or alternative sources. Public comment on this intended action may be submitted within 20 days after the date of the Federal Register in which this notice appears, addressed to David Epstein, U.S. Department of State, Office of Counterterrorism Programs (DS/CTP/ATA). Fifth Floor SA-10, Washington, DC 20520-1003. Tel. (202) 663-0272.

Dated: October 20, 1989.

Christopher M.B. Disney,

Acting Deputy Assistant Secretary for Policy and Counterterrorism.

[FR Doc. 89-26477 Filed 11-8-89; 8:45 am]

BILLING CODE 4710-07-M

Bureau of Intelligence and Research

[Public Notice 1140]

Soviet-Eastern European Studies Advisory Committee; Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on December 14, 1989, starting at 9:30 a.m. in Room 1105, Department of State, 2201 C Street, NW., Washington, DC.

The advisory Committee will recommend grant recipients for the advancement of the objectives of the Soviet and Eastern European Research and Training Act of 1983. The agenda will include: opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public about the Title VIII program in general; and within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organziations with an interest and expertise in conducting research and training concerning the USSR and Eastern Europe" based on the guidelines contained in the Call for Applications published in the Federal Register on June 20, 1989.

Public attendance is permitted but will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. It is required that persons planning to attend notify Susan H. Nelson, Soviet and Eastern European Studies Advisory Committee, INR/RES, Department of State, 1730 K Street, NW., Suite 233, Washington, DC 20006, (202) 632-6203. All attendees must use the 2201 C Street entrance to the State Department building.

Kenneth E. Roberts,

Executive Director, Soviet and Eastern European Studies Advisory Committee

[FR Doc. 89-26476 Filed 11-8-89; 8:45 am]

BILLING CODE 4710-32-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of North American Airlines, Inc., for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause, (Order 89-11-8) Docket 46314.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding North American Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in domestic scheduled air transportation of persons, property and mail.

DATE: Persons wishing to file objections should do so no later than November 13, 1989.

ADDRESSES: Objections and answers to objections should be filed in Docket 46314 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: November 6, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-26547 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; Franklin and Vance Counties, NC

AGENCY: Federal Highway Administration (FHWA).

ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will not be prepared for a proposed highway project in Franklin and Vance Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Lee, District Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790-2856.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to improve US-1 in Franklin and Vance Counties, North Carolina, was issued on August 9, 1989 and published in the August 13, 1989 Federal Register. The FHWA, in cooperation with the North Carolina Department of Transportation, has since determined that the proposed highway project will not be Federally funded and hereby rescinds the previous Notice of Intent.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Thomas H. Mull,

Acting District Engineer, Raleigh, North Carolina.

[FR Doc. 89-26337 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Moore and Lee Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project from north of Lakeview, Moore County, to south of Sanford in Lee County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, District Engineer, Federal Highway Administration, Suite 470, 4505 Falls of Neuse Road, Raleigh, North Carolina 27611, Telephone (919) 790–2852.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) for the improvement of the US 1 Corridor from north of Lakeview to south of Sanford. The proposed action would be the constructon of a multilane divided highway, potentially on a new location with controlled access from existing four-lane section north of Lakeview to the existing four-lane section south of SR 1180 (south of Sanford), a distance of about 12 miles. Improvements to the corridor are considered necessary to increase safety and traffic service.

This improvement is part of intrastate system, to provide multilane facilities on US 1 from Henderson in Vance County, near the Virginia line, to Richmond County on the South Carolina line.

Alternatives under consideration include: (1) the "no-build", (2) improving existing facilities, (3) partial relocation, and (4) a controlled access highway on new location.

Solicitation of comments on the proposed action are being sent to appropriate Federal, State and local agencies. A complete public involvement program has been developed for the project to include: the distribution of newsletters to interested parties, along with public meetings and a public hearing to be held in the study area. Information on the time and place of the public hearing will be provided in the local media. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To assure that the full range of issues related to this proposed action 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 on Federal programs and activities apply to this program.)

Issued on: November 3, 1989.

Roy C. Shelton,

District Engineer, FHWA, Raleigh, North Carolina.

[FR Doc. 89–26479 Filed 11–8–89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Madison County, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Madison County, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. W.R. Van Luchene, District Engineer, Federal Highway Administration, 441 High Street, Montgomery, Alabama 36104–4684, Telephone: (205) 223–7379. Mr. Royce G. King, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery Alabama 36130, Telephone: (205) 242–6311.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Alabama Highway Department, will prepare an Environmental Impact Statement (EIS) for Projects M–8508(1) and ST–697–7. These projects are located in the City of Huntsville, Madison County, Alabama. The proposals are to construct a Southern Bypass of Huntsvile from Memorial Parkway near Hobbs Island Road to Interstate Highway I–565, a distance of approximately 12 miles; and to construct an extension of Weatherly Road to the proposed bypass, a distance of approximately 2 miles

The Southern Bypass will be a controlled access divided facility with frontage roads. The highways will expedite traffic flow and relieve congestion to the Huntsville street system.

Alternatives under consideration include: (1) alternate route locations, (2) a no action alternative, and (3) postponing the action.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public involvement meeting will be held in Huntsville to acquire local input. Time and place for the meeting will be advertised in the local newspaper. A scoping meeting will also be held to solicit agency and public response to the action. The date and location of the scoping meeting will be appropriately advertised.

To ensure that the full range of issues related to this proposed action is 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 FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Constructjon. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Joe D. Wilkerson,

Division Administrator, Montgomery, Alabama.

[FR Doc. 89–26480 Filed 11–8–89; 8:45 am]

BILLING CODE 4910-22-M

[FHWA Docket No. 89–23]

Additional Interchanges to the Interstate System

AGENCIES: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed policy statement; request for comments.

SUMMARY: This notice requests public comment on a proposed statement of FHWA policy on guidance to the States for the justification and documentation needed for requests for additions of interchanges and ramps to the existing Interstate System. Since requests by States for additional access to the Interstate System have dramatically increased, the FHWA intends to clarify its policy and emphasize the need for justification in areas such as safety, traffic operations and land use.

DATE: Comments must be received on or before December 26, 1989.

ADDRESS: Submit written, signed comments to FHWA Docket No. 89–23, Federal Highway Administration, Room 4232, HCC–10, 400 Seventh Street SW., Washington, DC 20590. All comments

received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Seppo I. Sillan, Office of Engineering, (202) 366–0312, or Michael J. Laska, Office of the Chief Counsel, (202) 366–1383. Office hours are from 7:30 a.m. to 4:00 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 111 of title 23, U.S.C., provides that all agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. The Secretary has delegated the authority to administer 23 U.S.C. 111 to the Federal Highway Administrator pursuant to 23 CFR 1.48(b)(10). This agreement provision is contained in 23 CFR 630, subpart C, appendix A.

It has always been the policy of FHWA to maintain adequate control of access to the Interstate System to ensure safety, efficient traffic operation and efficient land use. The guidance for justifying and documenting the need for additional access to existing sections of the Interstate System has traditionally been included in the Interstate Cost Estimate (ICE) manuals that are periodically issued by FHWA pursuant to 23 U.S.C. 104(b)(5) and available to the public. The guidance generally required the documentation of public benefits or needs before an additional interchange or ramp could be added to the Interstate System. In July of 1987, the FHWA, by memorandum to Regional Federal Highway Administrators, restated and emphasized the justification criteria contained in ICE manuals. This was necessitated by an expanding effort by both public and private investors to enhance the utility and value of adjacent property to the Interstate System by requesting additional access points.

Discussion

The FHWA received 28 requests for additional accession 1975, 49 in 1980, about 70 in 1988, and 25 so far in 1989. Many requests are initiated to accommodate normal growth in residential and business areas while maintaining the safe and efficient operation of the Interstate facility. However, others are initiated by special interests merely to enhance adjacent property values or provide direct access to private facilities. The inadequacy of State and Federal funds to finance all transportation and infrastructure improvements has led local governments to seek alternative tax revenues. Commercial development can generate needed reveue for the local government, some of which may be dedicated to address transportation problems. However, in the pursuit of commercial growth, sound transportation planning can be compromised.

Traffic congestion is the major transportation issue today in most metropolitan areas. Some projections indicate that delay caused by traffic congestion on urban freeways will quadruple by the year 2005 unless aggressive actions are undertaken. The FHWA has placed emphasis on implementing existing congestion relief technologies. Major initiatives are under way in areas such as incident management and integrated freeway-arterial traffic control systems. The proliferation of added interchanges would further compound the freeway congestion problem and possibly negate other steps taken to relieve this congestion. It is imperative that plans for additional Interstate access be conceived in a manner that takes in account not only legitimate local needs for access, but also gives due consideraion for system integrity and purpose, i.e., a high level of safety and mobility.

The addition of interchanges to the Interstate System must be based on overall system needs and limitations. To assist the States in this critical process in the future, the FHWA is proposing to summarize its policy to ensure critical factors are duly considered in the request and approval process. Due to the national importance attached to maintaining a high level of service for traffic on the Interstate System, the FHWA is giving all interested parties an opportunity to comment on this policy.

Policy

It is in the national interest to maintain the Interstate highway systems to provide the higest level-of-service in terms of safety and mobility. Adequate control of access is critical to this end. Therefore, additional access points to the existing Interstate System will be considered for approval only if:

1. It is clearly demonstrated that the existing interchanges and/or local roads and streets cannot handle the expected traffic, provide access, or be improved to do so.

2. All feasible alternatives for design, location and transportation system management type improvements have been assessed.

3. The proposed new interchange does not adversely impact the safety and operation of the interstate facility based on an analysis of current and future traffic. The operational analysis for existing and proposed conditions should, particularly in urbanized areas, include an analysis of adjacent sections of the interstate facility as well as nearby existing and proposed interchanges. Crossroads and other roads and streets should be included in the analysis to the extent necessary to assure their ability to collect and distribute traffic to and from the new access or their ability to handle traffic in lieu of an added interchange.

4. The proposed interchange connects to a public road and will provide for all traffic movements. The proposed interchange is designed to meet current standards for Federal-aid projects on the Interstate System.

5. The proposal considers and is consistent with local and regional land use and transportation plans. In areas where the potential exists for future multiple interchange additions, all requests for new access are supported by a comprehensive interstate desired interchange additions within the context of a long term plan.

6. The request for a new interchange generated by new or expanded development demonstrates appropriate coordination between the commercial development and transportation system improvements. This includes possible phasing or staging of both transportation and private development work to optimize the highway system operations and to minimize the adverse effects of increased traffic demand.

Implementation

The FHWA Division Office will ensure that all added interchange requests submitted by the State highway agency for FHWA consideration contain sufficient information to allow the FHWA consideration contain sufficient information to allow the FHWA to independently evaluate the request and to ensure that all pertinent factors and alternatives as discussed above have been appropriately considered. The extent and format of the required justification and documentation should be developed jointly by the State highway agency and FHWA to accommodate the operations of both the

State and FHWA. The extent and format of justification should also be consistent with the complexity and expected impact of the proposals, i.e., information in support of an isolated rural interchange may not need to be as extensive as for a complex or potentially controversial interchange in an urbanized area. No specific justification documentation format or content is prescribed by this policy.

Policy State Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant action under the Department of Transportation's regulatory policies and procedures. Because of the interest in maintaining the highest level-of-service in terms of safety and mobility in the Interstate highway system, the FHWA has decided to give all interested parties an opportunity to comment on this policy.

The proposed policy statement summarizes and clarifies FHWA policy and guidance for the justification and documentation needed for requests for additions of interchanges and ramps to the existing Interstate System. Specifically, the proposed policy statement emphasizes the need for clear justification based on adequate information in areas such as safety, traffic operations and land use. The proposed policy statement will not impose any additional reporting or recordkeeping requirements on the States. To assure that adequate information and analysis is provided with each request for additional access, the extent and contents of the currently required justification documentation may need to be modified. These modifications can simply be incorporated into the States' existing additional interchange request policy. Therefore, a full regulatory evaluation is not required. For the above reasons, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities.

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

(Catalog of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental review of Federal programs and activities apply to this program.)

Issued on: November 2, 1989.

T. D. Larson,

Administrator.

[FR Doc. 89-26398 Filed 11-8-89; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 14, 1989, 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, November 16, 1989, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinions:
Draft AO 1989–21:
Ms. Elaine Sandra Abramson on behalf of Create-A-Craft
Draft AO 1989–23:
Mr. David T. Wright on behalf of Coopers & Lybrand
Draft AO 1989–24:
Ms. Kay Yarbrough on behalf of First Florida Partners for Good Government
Explanation & Justification of the Foreign National Regulations: 11 CFR 110.4
Affiliation & Earmarking Regulations: Announcement of Effective Date
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89–25683 Filed 11–7–89; 3:00 pm]

BILLING CODE 6715–01–M

federal register

Thursday
November 9, 1989

Part II

Small Business Administration

13 CFR Part 115

Surety Bond Guarantee; Interim Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

[Revision 4]

RIN 3245-AB77

Surety Bond Guarantee

AGENCY: Small Business Administration (SBA).

ACTION: Interim final rule.

SUMMARY: SBA publishes a new complete revision of its surety bond guarantee (SBG) regulations in further implementation of Title II of Pub. L. 100-590, the Preferred Surety Bond Guarantee Program Act of 1988 (Act).—An earlier implementing regulation (Rev. 3) was published May 8, 1989 (54 FR 19544) and is superseded by this Rev. 4. The Act created within SBA's Surety Bond Guarantee (SBG) program a pilot program, which allows SBA to authorize selected surety companies to issue, monitor and service surety bonds subject to SBA's guarantee without specific prior SBA approval. This program, unless extended by Congress, is due to end September 30, 1992. Because of the need to move this three-year pilot program forward, the rules are again published as "interim final" without opportunity for prior public comments. SBA requests comments on or before January 8, 1990. These comments will be carefully considered, and necessary amendments made as soon thereafter as practicable.

DATES: These rules are effective November 9, 1989. Comments are due on or before January 8, 1990.

ADDRESSES: Comments should be sent to James W. Parker, Jr., Director, Office of Surety Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: James W. Parker, Jr., Tel: (703) 235-2900.

SUPPLEMENTARY INFORMATION: The Act has the stated purpose of encouraging the major surety companies to contribute their expertise by substantial participation in SBA's Surety Bond Guarantee (SBG) program. The 3-year pilot program instituted under the Act is expected to improve the access to bonding for small and disadvantaged small business concerns. The inducement to participate is the freedom of designated sureties from the need to seek prior SBA approval for each decision relating to the issuance and administration of bid and final bonds guaranteed by SBA. The trade-off is a substantially lower indemnification against losses (70%).

In implementation of the Act, SBA published Revision 3 of its SBG regulations on May 8, 1989 (54 FR 19544) as "interim final", with a request for comments. Revision 3 attempted to merge the rules for the pilot Preferred Surety Bond (PSB) program with the rules of the pre-existing program (Revision 2), published August 24, 1988 (53 FR 32195). Our purpose was to maintain a unified program with uniform rules, to the extent that this is possible, since the purpose of the two programs, and the means to their achievement, are one and the same.

The purpose of both programs is stated in the policy section: to assist qualified small business concerns to obtain the required bid, payment and performance bonds and bonds ancillary thereto, which are unobtainable without an SBA guarantee. The older program does so by SBA approval of each bond guarantee on a case-by-case basis, or under a "bonding line", which allows for a limited number of bond guarantees for a pre-approved contractor within strict limitations. The older program was utilized almost exclusively by "specialty" sureties. The new program will allow sureties selected pursuant to strict principles to issue bonds guaranteed by SBA within stated limits, without prior SBA approval.

The two major objectives of the new program are, first, expansion of the participation of the standard surety companies, and second, improved access to surety bonds for small business concerns (Conference Report H.R. 100-1029, 100th Cong., 2d Session, October 3, 1988 p. 31).

SBA's attempt to formulate a single set of rules was not well received. The trade association representing the major sureties (Surety Association of America—SAA) expressed the opinion that separate regulations for the PSB program should be developed. Another comment from within SBA, also recommended separation of the regulations for the two programs, because the format used was considered confusing and it was difficult to ascertain what is applicable to each program. Accordingly, the present revision separates the rules for the two programs, by dividing the entire regulatory system into three subparts. The first subpart contains the rules common to both programs, and the other two subparts contain the rules for each of the two programs.

Another comment pointed out that the ability of PSB companies to write bonds also under the prior-approved program was susceptible to adverse risk selection; a surety might write the riskiest bonds under the prior-approval program, because of its greater loss guarantee (90% or 80% *vs* 70%). Accordingly, the present revision prohibits a surety admitted to the PSB program from also utilizing the prior-approval program.

The following comments explain the substantive changes made in Revision 4 from the prior Revision 3. For sections which have not been substantively changed from Revision 3, reference is made to the explanations given for Revision 2 (53 FR 32195; August 24, 1988) and Revision 3 (54 FR 19544; May 8, 1989)

A new § 115.1 explains the division of the SBG regulations (part 115) into three subparts. Subpart A contains regulations generally applicable to the SBG program. Subpart B deals with the (pre-existing) prior-approval program. Subpart C regulates the PSB program.

The paragraph dealing with the selection principles for the PSB program, now § 115.10(d), states a lower Treasury underwriting limitation than before ($1,250,000 vs. $2,500,000). Many comments pointed out that the $2.5 million limit excluded too many long-time participants in the SBG program from opting for PSB status. Others stressed the program itself was limited to contracts up to $1,250,000, so that the higher underwriting limit of the regulation bore no immediate relation to the SBG program limit. SBA now adopts the program limit, although it is hoped that contractors who "graduate" from the SBG program will be able to stay with the surety companies which brought them to "graduation", beyond the $1,250,000 ceiling.

The requirement that a PSB charge no more than the SAA advisory rates (§ 115.10(d)(2)) came under criticism. It was pointed out that three states (CA, KY, IL) prohibited the promulgation of advisory rates, and that the number of such states may grow. SBA is not concerned with the legality of these rates in the various states, but adopts them without regard thereto, because our experience has been that these rates protect the interests of small concerns without putting the surety at a disadvantage. In fact, certain present participants in the SBG program now use rates lower than SAA rates for some bond categories.

A new requirement has been added (§ 115.10(d)(3)). Guaranteed contact bonds may not exceed one-quarter of the PSB surety's total "book" of contract bond business. This requirement replaces former § 115.3(e)(3). The requirement that the PSB surety's

underwriters, as a group, write at least 25% of their bonds outside the SBG progam, came under criticism because it tended to stifle the formation of small-business specialists. The purpose of the former and of the new requirement is the same: to obtain experienced underwriting, not influenced by the awareness of the government guarantee.

The requirements of in-house underwriting (formerly § 115.3(e)(3)) and claims handling (formerly § 115.3(e)(4)) were criticized, because sureties commonly delegate some of these functions to branch offices. Accordingly, § 115.10(d) (4) and (5) now require that underwriting and claims settlement must be handled by employees of the surety, not necessarily in the home office. This requirement does not preclude business production by independent agents, and claims handling by independent counsel and consultants, selected by employees of the surety company, so long as the ultimate decision is reserved to the employees of the surety.

As pointed out above, § 115.10(f) now limits PSB participants to PSB bonds, to preclude adverse risk selection, *i.e.*, in the words of one comment, "to 'dump bad business' into the [prior-approval] program and thus to 'raid the Treasury'."

Section 115.10(g), formerly § 115.3(f), limits SBA's guarantee to bonds issued before contract work has begun. The definition of work start (any action which exposes the surety to liability) was criticized as overbroad because, it was said, such liability can begin without the surety's or the obligee's knowledge, for example, when the contractor orders materials before the bond is issued, to lock in a good price. Accordingly, the definition now limits work start to actions on the job site.

The definition of "Account of Contract" in the definition section, § 115.11, (formerly § 115.4) was criticized as omitting multi-year service and supply contracts. Accordingly, the definition now provides that such contracts are eligible so long as the surety's exposure in any one year does not exceed the statutory limit of $1,250,000.

The definition of "bid bond" limited the duration of the bid bond guarantee to 120 days unless SBA and surety agree otherwise. Our purpose was to safeguard our control over the use of our program level authority, since we must reserve an appropriate amount against bid bonds. A comment pointed out that sometimes a bid invitation is extended at the last moment, leaving no time to seek SBA approval. Accordingly, the definition now provides that the surety notify SBA in timely fashion of such extension, but need not seek approval.

The definition of "bid bond" now omits the prohibition of forfeiture bonds. That prohibition has been moved to § 115.33, where it continues to apply to prior-approval sureties. It is inappropriate to the PSB program, since it is an underwriting matter not subject to SBA's review.

A new definition, "Loss under ancillary bond" limits SBA's guarantee to a covered loss occuring under the guaranteed contract. This definition was judged necessary because ancillary bonds are sometimes term bonds, useable on unbonded contracts subsequent to the bonded contract for which they were issued.

The definition of "loss from litigation cost" was criticized. The definition required prior SBA approval for suits brought by a surety against a United States department or agency. The reason is obvious: in these cases the U.S. Government would pay for the litigation cost of both sides. It is recognized, however, that some such suits may be necessary for several reasons, such as the effect on the interests of indemnitors or guarantors. Accordingly, SBA reserves to itself the judgment on the necessity of such suits, and pledges that its approval will not be unreasonably withheld.

In the definition of "Loss from attorney's fees and damages" the words, "or any other person", present in Rev. 2 and inadvertently omitted in Rev. 3 have been restored, because tort suits against a surety can be brought not only by a principal, but also by any other claimant. The reason for this exclusion is the fact that, under the statute, SBA may only indemnify a surety for losses "resulting from a breach of the terms of a * * * bond * * * by a principal" (15 U.S.C. 694b(a)).

The definition of "obligee" has been expanded to include the so-called "dual obligee savings clause." That clause binds a co-obligee to the surety as completion contractor, as well as to the principal. Otherwise the bond would become a completion bond, since the co-obligee would not be bound to pay for completion by the surety. This savings clause has long been recognized by SBA in its Standard Operating Procedures (SOP) 50–45, par. 10.

A new definition for "Person" as a natural person or legal entity has been added.

The definition of "Regulatory Violation" in § 115.13 (formerly § 115.16), Defenses of SBA, has been clarified in response to a comment which found the prior definition in terms of exposure of SBA too vague. The definition now speaks in terms of an increase in SBA's bond liability by more than 25% or $50,000, whichever is less.

A comment criticized the general part of former § 115.7(a), now § 115.30(a). It was stated that the "deemed" certification of reasonableness of risk imposed an undue burden on the surety, and provided little guidance. We note that these words, and the others in the same paragraph, are taken from the statute, where they form the basis for the guarantee (See § 202 of Pub. L. 100–590, 15 U.S.C. 694b(a)(4)). Similar words have been in earlier Revisions, see for example, 13 CFR § 115.6(a)(1), Edition as of Jan. 1, 1988. To our knowledge, these words have not caused problems.

A clarification has been added to the indemnification paragraph, § 115.30(c), formerly § 115.3(d). It now states expressly that a final bond initially for a contract amount of less than $100,000 may increase beyond that amount without reduction in the guarantee percentge (90%), if the bond guarantee is issued on behalf of a disadvantaged small concern. It also makes clear that if a bond for a contract amount of less than $100,000 issued on behalf of a principal which is not disadvantaged subsequently increases beyond $100,000, the percentage will decrease from 90% by one percent for each $5,000 or for any part of a $5,000 increment, but will not decrease below 80%. Conversely, it also makes clear that bonds for contracts over $100,000 issued on behalf of small concerns which are not disadvantaged will be guaranteed up to the administrative ceiling of 80%.

In § 115.31 (formerly § 115.8), paragraph (c) has been amended to make clear that SBA requires the principal's or the surety's own check for the principal's guarantee fee with the notice from the surety of the issuance of final bonds. This change from the earlier wording is intended to make clear that the surety is not responsible for the clearance of the principal's check, and may submit its own check if it so desires. The reason for this provision is the difficulty SBA sometimes experiences in collecting a principal's guarantee fee, since SBA is not in privity with the principal, whereas the surety is in privity.

A new paragraph has been added to § 115.32 (formerly § 115.9). That paragraph requires sureties to obtain status reports from bond obligees, which are not to be forwarded to SBA. This new requirement was suggested by the General Accounting Office, an arm of the U.S. Congress, in the course of its review of the SBG program, to enable sureties better to monitor progress under the bonded contract. Most sureties

obtain such reports now, but the practice is not as general as it should be.

A change in § 115.34 (formerly § 115.11) relaxes the condition of reinstatement of a principal after default. Paragraph (a)(1) previously required that a principal indemnify its surety for at least half its loss in cash, with a note for the balance. It now leaves the percentage of indemnification to the surety's discretion.

Section 115.35(c) (formerly § 115.12(c)), SBA charge to surety, now prescribes a uniform 20% share of the bond premium as SBA's guarantee fee from the surety. Several comments had sharply criticized the former dual computation of either 20% or a flat dollar fee per thousand dollars of bond or contract amount. The comments called it "an accounting nightmare" and an "opportunity for error." Accordingly, SBA has omitted the flat dollar rate altogether, and adopted a 20% premium share across the board.

Section 115.35(c) has been further amended by the insertion of a *de minimis* provision. Adjustments up or down in SBA's premium share or the principal's guarantee fee may be disregarded if such fee adjustment amounts to less than forty dollars. The reason for this change is cost effectiveness. It must be noted, however, that no such cost effectiveness considerations apply to § 115.13 where the statute requires a material breach and a substantial violation to justify a denial of liability. For an explanation of the requirement concerning the principal's guarantee fee, see comment on § 115.31.

A series of questions were raised regarding § 115.37(b)(1) (formerly § 115.14(b)(1)). The questions and their answers are provided as follows: (Q) Does the "imminent breach" regulation concern itself only with financing of the principal? (A) Any measure to forestall a breach (*e.g.* surety pays for accountant or engineer) qualifies under this provision. (Q) Does the surety apply for approval of preventive expenditures before or after they are made? (A) Before. (Q) Why do the regulations differ in this regard for non-PSB and PSB sureties? (A) Because the principle underlying the PSB program is to let a PSB surety act without case-by-case SBA approval. A PSB surety takes responsibility for all its servicing decisions, including this one. (Q) Can SBA react quickly enough to approve a surety's request for indemnification? (A) We expect that we can give telephone approval (See § 115.31(a)) from one business day to the next. (Q) On what criteria does SBA determine that a breach is imminent? (A) The Determination must remain committed to SBA judgment, since circumstances vary from case to case. Generally speaking, we expect that SBA will follow the surety's and the principal's lead since the prevention of a breach should cost much less than a default.

The provision concerning business integrity of the surety, § 115.39(b) (formerly § 115.17(b)) has been amended to emphasize that the events destroying the presumption of good character are themselves only presumptively destructive, and can be rebutted by appropriate evidence. For example, a license revocation can be explained by an inadvertent late fee payment which has since been paid and the license restored.

In § 115.60(a), Procedures for PSB (formerly § 115.6(a)), the criterion of geographic diversification has been omitted. SBA had assumed that PSB sureties would do business throughout the country. A well taken comment, however, pointed out that reinsurers do not have such a requirement. Single state and regional sureties are often more successful than national firms, because of their greater familiarity with their clients and with local conditions.

Another comment asked whether a bid bond would count against the PSB allotment by its penal sum or by the estimated contract price (See § 115.60(b), formerly § 115.6(b)). The regulation now provides that the penal sum counts until such time as the SBA bid bond guarantee expires, for example, because the contract has been awarded or the bid withdrawn.

Section 115.60(c)(2) (formerly § 115.6(c)) has been amended by the addition of a sentence requiring PSB sureties to obtain status reports from obligees. While SBA believes that this practice is the custom of the surety industry, the requirement matches a similar requirement in § 115.32(b).

A former paragraph, § 115.6(c)(5) requiring prior SBA approval for compromise settlements with indemnitors or guarantors, and of liquidation plans for debtor small concerns, came under criticism as both cumbersome and contrary to the principle of the PSB program entrusting all servicing decisions to the PSB surety. In response, SBA has omitted such requirements form this revision.

The remaining paragraphs (3) through (6) of § 115.60(c) (formerly § 115.6(c)(3) through (4)) have been rewritten in response to comments thereon. These paragraphs now require SBA notification of all bid and final bonds with SBA guarantees and all changes thereto, by means of a monthly bordereau. Premiums, loss and recovery shares will be passed back and forth between SBA and PSB sureties in the normal course of business. Increases and decreases in bond liability of 25% or $50,000, whichever is less, require adjustment both in the principal's guarantee fee and in SBA's premium share, but changes of less than $40 are to be disregarded. Increases in bond liability must fit within the PSB surety's allotment for the period during which the PSB surety consents to such increase. When a principal defaults or is reinstated after default, SBA is to be notified within 30 calendar days irrespective of bordereau periods. SBA's purpose here is to prevent a defaulted contractor from seeking SBA-guaranteed bonds from other sureties, and to enable it to restore bonding capability when warranted.

Section 115.61(a), formerly § 115.15, now requires submission of claims for losses within one year from disbursement, but no longer requires the submission of the bonded contract, consistent with the principle that PSB sureties participating in the PSB program are not subject to case-by-case approval from SBA.

For the same reason, the requirement for semi-annual status reports has been omitted.

Section 115.61(b) Imminent breach formerly was § 115.14(b)(2), and remains substantively unchanged (See comments on § 115.37(b).

Section 115.62(a) (formerly § 115.17(a)) has been amended to compare PSB surety bond practice with those of other PSB sureties, as more stringent criteria are applicable to PSB sureties.

Section 115.61(b), formerly § 115.17(b), has been amended in conformity with § 115.39(b), to make clear that the stated events destroying the presumption of good character are themselves only presumptively destructive, and therefore rebuttable.

A new section, § 115.64, not contained in earlier revisions, has been added in response to comments on former § 115.10(b). That paragraph stated that SBA would determine the eligibility of PSB bonds for an SBA guarantee at the time a claim for loss under such bond is received. This point in time seemed to us to be the first when SBA had knowledge of the PSB bond, and became able to review such PSB bond's conformity with SBA's authorizing statute. The provision, however, was termed as "totally unacceptable" by SAA. Accordingly, SBA has attempted to formulate the 13 grounds for denials of liability which have become manifest in the past and which are applicable to the PSB program. It should be noted,

however, that the statute lists SBA's defenses (See § 115.13 and § 411(e) of the Small Business Investment Act, as amended by Section 203(c) of the Act). These statutory defenses are available, whether or not repeated in the regulation. Accordingly, the grounds for denial of liability recited in this section cannot be taken as definitive or comprehensive. In this connection, we point out that in the last sixteen years, less than fifty denials of liability have occurred, and that each denial requires approval from the highest level of SBA. The first four grounds are statutory. The fifth ground would exist if the bonded contract represents a financial guarantee, such as if the principal's payments to the obligee are bonded. The sixth ground exists if an agent mistakenly issues a guaranteed bond in the name of a surety other than the one which has agreed to issue it. The seventh to eleventh grounds are explicitly stated in these regulations. The twelfth ground exists, for example, if the surety suffers a loss as a result of a "bad faith" practice.

The last ground would exist if an ancillary bond, *e.g.*, for taxes or union benefits, issued as a term bond rather than a job bond results in a loss on a job for which SBA had not issued a bond guarantee.

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

For purposes of Executive Order 12291, SBA has determined that these rules are major since they restructure a program with a program level of $1.25 billion.

SBA certifies that these rules do not warrant the preparation of a Federal Assessment in accordance with Executive Order 12612.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 604, SBA has determined that these rules will have a significant economic impact on a substantial number of small entities.

The following analysis is provided within the context of the review required under Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 603):

These rules are necessary to implement the Preferred Surety Bond Guarantee Program Act of 1988, Pub. L. 100–590, Title II approved November 3, 1988 (102 Stat. 3007). This Act created within SBA's existing Surety Bond Guarantee program a new program under which SBA may authorize selected sureties "without further administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee."

It is therefore necessary to set forth how such sureties will be selected to issue SBA guarantees on SBA's behalf without prior SBA approval, how they would operate to meet SBA's requirement under the statute and the regulations, how SBA would regulate, audit and, if necessary, terminate the PSB status of such sureties. At the same time, it is necessary to restructure the existing regulatory system to accommodate a two-track surety bond guarantee program.

The change in § 115.35(c), SBA charge to surety, was made because one of the prior computations of a guarantee fee, a flat dollar amount, had been criticized as a potential fairness problem, given the increasing diversity of premium rates. We believe that the present system will avoid such results.

We believe that the new statute and these regulations will result in lower bonding costs and better availability of bonds for small concerns, because the expected entry into the SBG program of major industry members with their wide organizational network, at premiums which do not exceed the Surety Association of America's advisory rates, will make more bonds at lower cost available to the small business market. It should be noted that the PSB represents a trade-off. PSB sureties accept a lower indemnification rate against their losses, and sometimes lower premiums, in return for the privilege of protecting their bonds with the SBA guarantee without "second-guessing" by SBA. However, given the finite guarantee authority for SBA, it is conceivable that over time a market shift away from SBA's traditional participants towards the new SBG entrants could occur, although we do not think so. SBA's increased bonding authority, together with the trade-off discussed above, should combine to prevent a detriment to our traditional partners.

SBA is not aware of any suitable alternatives to the rules here set forth. Because of the short life of this pilot program, as explained in the Summary, these rules are published as interim final, with a request for comments.

There are no reporting, recordkeeping and other compliance requirements not approved by the Office of Management and Budget which would come under the Paperwork Reduction Act, 44 U.S.C. ch. 35.

There are no federal rules which duplicate, overlap or conflict with these rules.

The legal authority for these rule changes is section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), section 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c), and section 411(d) of that Act, 15 U.S.C. 694(b)(d).

List of Subjects in 13 CFR Part 115

Small business, Surety bonds.

Pursuant to the authority contained in section 411(d) of title IV, part B, Small Business Investment Act of 1958, as amended, (15 U.S.C. 694(b)(d)) and in section 203 of the Preferred Surety Bond Guarantee Program Act of 1988, Pub. L. 100–590 (102 Stat. 3007). Title 13, Code of Federal Regulations, chapter I, part 115, is hereby revised as follows.

PART 115—SURETY BOND GUARANTEE

Sec.

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Authority: Title IV, Part B of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b, 694a, 694b), the Inspector General Act of 1978 (5 U.S.C. App. 1) and Pub. L. 100–590, Title II.

§ 115.1 Explanation of regulations.

These regulations cover the Small Business Administration's (SBA's) Surety Bond Guarantee programs under part B of title IV of the Small Business Investment Act of 1958, as amended. Subpart A of this part 115 contains regulations common to both the program

requiring prior SBA approval of each bond guarantee, and the program not requiring such prior approval. Subpart B contains the regulations applicable only to the prior-approval program. Subpart C contains the regulations applicable only to the program not requiring prior SBA approval. These latter regulations implement the Preferred Surety Bond Guarantee Program Act of 1988, Pub. L. 100–590 (102 Stat. 3007), from which the name Preferred Surety Bond Program (PSB) is derived.

§ 115.2 Statutory provisions.

The relevant statutory provisions will be found at 15 U.S.C. 694a, *et seq.*

§ 115.3 Headings.

Headings are explanatory (for reference ease) and are not regulatory.

§ 115.4 Savings clause.

The legality of transactions, including the issuance by SBA of bond guarantees, pursuant to provisions of SBA regulations in effect before amendment, shall be governed thereby, notwithstanding subsequent changes. Nothing herein shall bar SBA enforcement with respect to any transaction consummated or bond guarantees issued in violation of provisions applicable at the time, but no longer in effect. If any section or part of a section of these regulations should be adjudged invalid, only that section or part shall be invalid, and no other part or section shall be affected thereby.

Subpart A—Regulations Applicable to All Surety Bond Guarantees Under This Part

§ 115.10 Policy.

(a) *Congressional intent.* It is the intent of Congress to strengthen the competitive free enterprise system by assisting qualified small business concerns to obtain bid, payment, or performance bonds and bonds ancillary thereto, which are otherwise unobtainable without a Small Business Administration (SBA) guarantee. Consequently, Congress has authorized SBA to guarantee on a prudent and economically justifiable basis (upon such terms and conditions as SBA may prescribe) sureties participating in the Surety Bond Guarantee (SBG) program, against a part of their losses incurred as a result of a principal's breach of the terms of a bid bond, payment bond, performance bond, or bonds which are ancillary to such bonds, on any contract not exceeding $1,250,000 in face value. Congress has further authorized SBA to empower selected sureties, without further SBA, approval, to issue, monitor, and service such bonds, subject to SBA's guarantee. This latter program is hereafter referred to as the Preferred Surety Bond Program (PSB).

(b) *Types of bonds.* The Administration has determined that only bid, performance, and payment bonds (other than bonds in the nature of a financial guarantee) issued in connection with a contract and of a type listed in the "Contract Bonds" section of the current Rating Manual of the Surety Association of America [1] will be eligible for an SBA guarantee. In addition, the SBA guarantee may be extended to such ancillary bonds as are incidental to the contract and essential for its performance.

(c) *Guarantee agreement.* A surety company participating in this program shall be listed by the U.S. Treasury as eligible to issue bonds in connection with Federal procurement contracts, and be a corporation determined by SBA to be a surety eligible to participate in this program. The terms and conditions of SBA's bond guarantee agreements may vary from surety to surety, depending on SBA's experience with a particular surety. Where the statute does not mandate the division of losses, the Office of Surety Guarantees will consider, by way of example and not of limitation, surety's loss rate in this program in comparison with other sureties participating with SBA to a comparable degree, the rating or ranking designation assigned to the surety by recognized authority, the average contract amount or bond penalty per bond written in this program and the ratio of bid bonds to final bonds written in this program.

(d) *Selection of sureties for the PSB program.* SBA's selection of sureties empowered to issue, monitor and service bonds subject to SBA's guarantee without prior SBA approval will be guided by, but not limited to, these factors:

(1) An underwriting limitation of at least one and one-quarter million dollars ($1,250,000) on the U.S. Treasury Department list of acceptable sureties;

(2) An agreement to charge small concerns bonded under PSB no more than the advisory premium rates of the Surety Association of America, whether or not such rates are approved in or accepted by the relevant jurisdiction;

(3) Premium income from contract bonds guaranteed by any government agency (Federal, State or local) does not exceed one-quarter of the total contract bond premium income of the surety;

(4) Underwriting authority for SBA-guaranteed bonds is vested only in employees of the surety company;

(5) Final settlement authority for claims under the PSB program is vested in employees of a PSB surety's permanent claims department satisfactory to SBA;

(6) Number of bid and final contract bonds issued by the surety from year to year for the last five fiscal years;

(7) The rating or ranking designations assigned to the surety by recognized authority.

(e) *Duration of PSB program.* The PSB program shall terminate on September 30, 1992, unless extended by Act of Congress. SBA guarantees effective under this program on or before September 30, 1992, shall remain in effect after such date.

(f) *Participation in PSB program.* A surety authorized to issue, monitor, and service surety bonds subject to SBA's guarantee without obtaining prior SBA approval, shall not be eligible to submit applications under subpart B.

(g) *Timeliness.* (1) SBA's guarantee of a bond will be honored only if issued before the work under the contract has begun. To establish the exact bond issuance date, a surety shall maintain a contemporaneous record of the issuance of each bond (OMB Approval No. 3245–0007).

(2) For purposes of this paragraph (g), work on a job shall be considered as having begun when a contractor takes any action at the job site which exposes its surety to liability under applicable law.

(3) SBA may guarantee a bond issued after work on the contract has begun, but only by the signature on Form 991 (OMB No. 3245–0007) of an SBA official having delegated authority to approve contract amounts such as underlie the bond in question (see § 101.3–2, Part III(c) of this chapter), upon receipt of all of the following from the surety:

(i) Evidence (certified copy of contract or sworn affidavit) from the principal that the surety bond requirement was contained in the original job contract, or documentation satisfactory to SBA, as to why a surety bond was not previously secured and is now being required.

(ii) A certification by the principal listing all suppliers and indicating that they are paid to date, attaching a waiver of lien from each; that all taxes and labor costs are current; that all subcontractors are paid to their current status of work and a waiver of lien from each, or an explanation satisfactory to SBA why such documentation cannot be produced.

[1] 100 Wood Avenue South, Iselin, New Jersey 08830.

(iii) A certification by obligee that all payments due under the contract to present status have been made and that the job has been satisfactorily completed to present status.

§ 115.11 Definitions.

This section includes terms defined at 15 U.S.C. 694a and provides definitions of other terms.

Affiliate is defined in § 121.3(a) of this chapter.

Amount of contract. The amount of the contract to be bonded shall be established as of the time of issuance of the executed and guaranteed bond or bonds. The contract amount shall not exceed $1,250,000 in face value. The amounts of two or more contracts for a single project, to be performed in phases, shall not be aggregated if the prior bond is released (other than for maintenance or warranty—see definition of "contract" in this section) before the beginning of each succeeding phase. A "single project" means one represented by two or more contracts of one principal or its affiliates with one obligee or its affiliates for performance at the same locality, irrespective of job title or nature of the work to be performed. A service or supply contract covering more than a one-year period shall be eligible if the annual contract amount and the penal sum of the bond do not exceed $1,250,000 at any time.

Ancillary bond means a bond incidental and essential to the performance of the contract to which SBA's guarantee pertains.

Bid bond means a bond conditioned upon the bidder on a contract (not to exceed a contract amount of $1,250,000) entering into the contract, if bidder receives the award thereof, and furnishing the prescribed payment bond and performance bond. A bid bond guarantee shall expire 120 days after issuance of the bond, unless surety notifies SBA in writing before such 120th day that a later expiration date is required, stating such date.

Contract means an obligation of the principal requiring the furnishing of services, supplies, labor, materials, machinery, equipment or construction (including a warranty up to two years if such warranty is limited to defective materials or workmanship). The contract shall not be a permit, subdivision contract, lease, land contract, evidence of debt, financial guarantee (*e.g.*, a contract requiring payment(s) by principal to obligee), warranty of performance or efficiency, warranty of fidelity, or release of lien (other than for claims under a guaranteed bond) nor shall a contract prohibit a surety from performing the contract upon default of the principal. A warranty in excess of two years or against other than defective materials or workmanship shall not be covered by SBA's guarantee unless SBA, by a separate writing signed by surety and SBA, agrees to a warranty in excess of two years from completion or for other than materials and workmanship, ancillary to an otherwise eligible contract, if such warranty is the immediate contractual responsibility of the principal, upon a showing that such warranty is customarily required in the relevant trade or industry.

Contractor means the person with whom the obligee contracts to perform the contract.

Imminent Breach means a threat to the successful completion of a bonded contract which, unless remedied by surety, makes a default under the bond appear to be inevitable.

Issuance or *issued* means the release of the SBA-guaranteed executed bond by the surety, which binds surety to the contract if such contract is awarded to the principal.

Loss shall have the following meanings: (a) Loss Under Bid Bond. In the case of a bid bond, the lesser of the penal sum or the sum which is the difference between the bonded bid and the next higher responsive bid, less any amounts recovered by reason of the principal's defenses against the obligee's demand for performance by the principal and less any sums recovered from indemnitors and other salvage.

(b) Loss Under Payment Bond. In the case of a payment bond, at the surety's option, the sums necessary to pay all just and timely claims against the principal which are for the value of labor, materials, equipment and supplies furnished for use in the performance of the contract, and to pay other debts of the principal for which the surety is liable under the bond, or the penal sum of the payment bond, with interest and related court costs and attorney's fees, if any, less any amounts recovered (through offset or otherwise) by reason of the principal's claims against laborers, materialmen, subcontractors, suppliers or other rightful claimants, and less any sums recovered from indemnitors and other salvage.

(c) Loss Under Performance Bond. In the case of a performance bond, at the Surety's option, the sums necessary to meet the cost of fulfilling the terms of a contract, or the penal sum of the bond, with interest and related court costs and attorneys fees, if any, less amounts recovered (through offset or otherwise) by reason of the principal's defenses or causes of action against the obligee and less any sums recovered from indemnitors and other salvage.

(d) Loss under Ancillary Bond means a loss covered by that bond and attributable to the particular contract for which SBA-guaranteed payment or performance bonds were issued.

(e) Loss adjustment expense. Amounts actually paid, specifically allocable to the investigation, adjustment, negotiation, compromise, settlement of or resistance to a given claim (including court costs and reasonable attorney's fees) for loss resulting from the asserted breach of the terms of any guaranteed bond, but excluding all unallocated or overhead expenses of surety. Any allocation method must be reasonable and in accord with generally accepted accounting principles.

(f) Loss from litigation cost. Expenses shall also include court costs and reasonable attorney's fees incurred in suits to enforce mitigation of loss as defined in paragraphs (a) through (d) of this definition, including suits to obtain sums due from obligees, indemnitors, prinicipals and others, but no such expense shall be paid for any such suits filed against the United States of America or any of its agencies, officers or employees unless the surety has, prior to filing such suit, received written concurrence from SBA that such suit may be filed, or unless such claim is asserted as a cross-claim or counterclaim.

(g) Loss from attorneys' fees and damages. "Loss" shall not include attorney's fees and court costs incurred by a surety in a suit by or against SBA or its Administrator, and shall not include such costs or payments (*e.g.*, tort damages) arising out of a successful suit sounding in tort initiated under the bond by a principal or any other person against such surety.

(h) Loss after excess contract amount. Where the contract amount, through change orders or otherwise is increased after issuance of the executed guaranteed bond beyond the statutory limit of $1,250,000, SBA's share of the loss shall be limited to that percentage of the increased contract amount, which the statutory limit represents, multiplied by the guarantee percentage approved by SBA. Thus, if a contract amount has been increased to $1,375,000, SBA's share of the loss under an 80% guarantee would be limited to 72.73% [1,250,000 ÷ 1,375,000=90.91% × 80%=72.73%].

Obligee means in the case of a bid bond, the person requesting bids for the performance of a contract, or in the case of a payment bond or performance bond, the person who has contracted with a Principal for the completion of

the contract and to whom the primary obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond. No person shall be named co-obligee on the bond or on a rider to the bond unless such person (including a lender to the original obligee) is bound by the contract to the principal or to the surety, if surety has arranged completion of the contract, to the same extent as the original obligee or unless such co-obligee is a Federal department or agency. In no event may the aggregate liability of the surety exceed the penal sum of the bond.

Payment bond means a bond conditioned upon the payment by the Principal of money to persons who furnish labor, materials, equipment and supplies for use in the performance of the contract, and to other persons who have a right of action against such bond.

Performance bond means a bond conditioned upon the completion by the principal of a contract in accordance with its terms. Such bond shall not prohibit a surety from performing the contract upon default of the principal.

Person means a natural person or a legal entity.

PSB Surety means a surety admitted by SBA to the Preferred Surety Bond Program (PSB) and authorized by SBA to issue, monitor and service without further SBA approval, bid, payment and performance bonds, and bonds ancillary thereto, which shall be guaranteed by SBA, subject to these regulations, if issued within the periodic allocations set by SBA for each such preferred surety (see § 115.60(b)).

Premium means an amount determined by applying an approved rate to the bond or contract amount, and does not include surcharges for extra services whether or not considered part of the "premium" under local law.

Principal means in the case of a bid bond, a person bidding for the award of a contract, or in the case of final and ancillary bonds, the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance or payment the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

PSB means the Preferred Surety Bond Program (See "PSB Surety" above).

Surety means the person which is listed by the U.S. Treasury, see § 115.10(c), and is a corporation determined by SBA to be a surety eligible to participate in this program, which has entered into a Surety Bond Guarantee Agreement or a Preferred Surety Bond Agreement with SBA and:

(a) Under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond;

(b) Under the terms of a performance bond, undertakes to pay a sum of money or to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract; or

(c) Under the terms of a payment or an ancillary bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work under the contract and who have a right of action against the bond under local law, or

(d) Is an agent, independent agent, underwriter, or any other company or individual empowered to act on behalf of such person.

§ 115.12 Eligibility of principal.

In order to be eligible for a bond guaranteed by SBA, the principal must:

(a) *Size.* Qualify as a small business under part 121 of this chapter;

(b) *Character.* Possess good character and reputation. A Principal will be deemed to meet this standard if each owner of twenty percent or more of its equity, and each of its officers, directors, or partners possesses good character and reputation. Good character and reputation shall be presumed absent when any such person:

(1) Is under indictment (pending disposition of such indictment) for or convicted of a felony, or has suffered an adverse final civil judgment that he or she has committed a breach of trust or the violation of a law or regulation protecting the integrity of business transactions or business relationships; or

(2) A regulatory authority has revoked, cancelled or suspended the license of such person necessary to perform the contract; or

(3) Has obtained a bond guarantee by fraud or material misrepresentation (as these terms are defined in § 115.13), or has failed to keep Surety informed of unbonded contracts or a contract bonded by another surety as required by a bonding line commitment pursuant to § 115.36.

(c) *Need for bond.* Certify that a bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor thereon;

(d) *Availability of bond.* Certify that a bond is not obtainable on reasonable terms and conditions without SBA's bond guarantee assistance; and

(e) *Partial subcontract.* Certify the percentage of work under the contract to be subcontracted. SBA will not guarantee bonds for contractors who are primarily brokers or packagers, see § 124.109(a) of this chapter.

(f) *Debarment.* Certify that applicant is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions with any Federal department or agency, pursuant to governmentwide debarment and suspension rules. See, e.g., part 145 of this chapter, and 48 CFR subpart 9.4. Compliance with 13 CFR 145.510 shall satisfy this requirement, i.e., if surety has on file applicant's SBA Form 1624.

§ 115.13 Defenses of SBA.

In addition to equitable and legal defenses and remedies afforded by the general law of contracts, the statute and these regulations, SBA shall be relieved of all liability under any Surety Bond Guarantee, if:

(a) *Excess contract amount.* The total contract amount at the time of issuance of the bond or bonds exceeds $1,250,000 in face value; or

(b) *Misrepresentation.* The surety obtained the guarantee agreement or applied for reimbursement for losses by fraud or material misrepresentation. Material misrepresentation includes (but is not limited to) both the making of an untrue statement of material fact and the omission of a statement of material fact necessary to make a statement not misleading in light of the circumstances in which it was made, and includes the adoption by the surety of a material misstatement made by others which the surety knew or under generally accepted underwriting standards should have known to be false or misleading. Failure by the surety (as defined in § 115.11) to disclose its ownership (or the ownership by any owner of twenty percent or more of its equity) of an interest in a principal or an obligee shall be deemed the omission of a statement of material fact; or

(c) *Material breach.* The surety has committed a material breach of one or more terms or conditions of its guarantee agreement, whether under PSB or otherwise. For purposes of this paragraph, a material breach or breaches of such terms or conditions shall be deemed to have occurred if such breach (or such breaches in the aggregate) causes an increase in SBA's bond liability of at least 25 percent or $50,000 whichever is less, or if one of the statutory conditions (see § 115.30(a)) is not met; or

(d) *Regulatory violation.* The surety has substantially violated the SBA regulations as published in 13 CFR

Chapter I, and amended from time to time by publication in the Federal Register. For purposes of this paragraph, a substantial violation shall be one which increases the Agency's bond liability by more than 25 percent or $50,000 in the aggregate, whichever is less, or is contrary to the purposes of the program (see § 115.10(a)) or to the mission of SBA (see section 2 of the Small Business Act, 15 U.S.C. 631) or to national policy as stated in SBA regulations (see, for example and not as limitation, parts 112, 113, 116, 117 and 145 of this chapter); or

(e) *Alteration.* Surety agrees to or acquiesces in any material alteration in the terms, conditions or provisions of the bond(s), including but not limited to the following acts, without obtaining prior written approval from SBA which may be conditioned upon payment of additional fees:

(1) Name as an obligee on the bond(s) or on a rider to the bond any party (other than a Federal department or agency) which is not bound by the contract to the principal, or to the surety if surety has arranged completion of the contract, to the same extent as the original obligee; or

(2) Make any alterations in bond(s) issued with SBA's prior approval which would increase the bond(s) liability by more than either 25 percent, or $50,000 in the aggregate, whichever is less.

See also §§ 115.10(g), 115.30(a), 115.31(c), and 115.60(c)(4).

Subpart B—Guarantees Subject to Prior Approval

§ 115.30 Procedure for surety bond guarantee assistance.

(a) *General.* By submitting an application to SBA for a bond guarantee, surety shall be deemed to certify that the contractor is a small business concern, that the bond is expressly required by the terms of the bid solicitation or the contract (as the case may be), that the contractor is not able to obtain such bond on reasonable terms and conditions without an SBA guarantee, that the terms and conditions of the proposed bond are reasonable in the light of the risks involved and the extent of the surety's participation, and that there is a reasonable expectation that the principal, if awarded the contract, will perform the conditions of the contract with respect to which the bond is required.

(b) *Application for guarantee.* Application for an SBA guarantee (including a bonding line application—see also § 115.36(c)) is made by the contractor and the surety on a form "Application for Surety Bond Guarantee Assistance," SBA Forms 994 and 994B or C (Underwriting Review), respectively (OMB Approval No. 3245–0007). Except for premiums, contractor shall itemize on SBA Form 994 (Application for Surety Bond Assistance) all payments made, or to be made, by contractor to surety (as defined in §115.11) for whatever purpose as a condition of, or in connection with, the issuance of the bond(s) to be guaranteed by SBA. Contractor and surety, respectively, shall disclose, by separate attachment to SBA Forms 994 and 994B or C, to the best of their knowledge any business and close family relationship between them (for definition of "close relative," see § 120.2–2(d) of this chapter). No negative statement is required. The contractor shall be required to execute and file SBA Form 1261 (Statements Required by Law or Executive Order) and SBA Form 1624 (Lower Tier Certification Form) (no OMB Approval No. required) with the initial application. In addition, the contractor shall complete and provide SBA Form 912, Statement of Personal History (OMB Approval No. 3245–0178), for each owner of 20 percentum (20%) or more of its equity and each officer, director and partner, for submission with contractor's initial application and on subsequent applications shall either certify that the information provided in the initial SBA Forms 912 remains complete and accurate, or submit updated SBA Forms 912. The completed application, together with the surety's report of underwriting review on SBA Form 994B or 994C (OMB Approval No. 3245–0007), shall be submitted to SBA only by a person empowered and authorized by the surety in writing to issue the bond applied for. A surety shall furnish SBA a true copy of its agent's power-of-attorney (including any dollar or other limitation thereon) before or with such agent's initial request for a guarantee, notice of any subsequent modification thereof, and a renewal notice on or before the expiration date of such power.

(c) *Indemnification.* (1) SBA shall pay to the surety ninety percent (90%) of the loss incurred and paid if:

(i) The total amount of the contract at the time of issuance of the bond is one hundred thousand dollars ($100,000) or less.

(ii) The bond was issued on behalf of a small concern owned and controlled by socially and economically disadvantaged individuals. "Socially and economically disadvantaged individuals" shall include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Subcontinent Asian Americans, and other minorities or any other individual found to be disadvantaged by SBA pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)). See § 124.105 of this chapter. A concern so owned and controlled shall qualify if it qualifies as small under the size standard for its primary industry as set forth in part 121 of this chapter and if it is at least fifty-one percent (51%) or more owned by such disadvantaged individuals, and it is managed and its daily business operations are controlled by one or more such individuals.

(iii) In cases where the contract amount, subsequent to the issuance of the bond under paragraph (c)(1)(i) of this section, increases to more than $100,000, through change orders or otherwise, the percentage of SBA's indemnification of the surety shall decrease by one percentage point for each $5,000 of increase or part thereof, but shall not decrease below 80 percent. This provision shall not apply to guarantees which qualify under paragraph (c)(1)(ii) of this section.

(2) SBA shall indemnify a surety in an amount not to exceed an administrative ceiling of eighty percent (80%) of the loss on bonds issued to other than disadvantaged concerns in excess of $100,000 (one hundred thousand dollars).

§ 115.31 Approval or decline of surety's guarantee application.

(a) *Approval.* SBA's approval or decline of a guarantee application shall be made in writing only by the SBA officer having delegated authority to approve contract amounts such as underlie the bond in question (see § 101.3–2, Part III (c) of this chapter). This paragraph does not prohibit telephone notice by such officer to a surety that SBA's guarantee approval form has already been signed by such officer, in advance of surety's receipt of such approval (pending receipt by surety of such written approval): *Provided, however,* That the written approval shall be controlling, as against such telephone notice.

(b) *Reconsideration—appeal.* A request by a surety for reconsideration of a decline shall be directed to the appropriate SBA officer who made the decision to be reconsidered. If the decision on reconsideration is negative, the surety may make a further appeal to the Regional Administrator. If the decision is again adverse, surety may direct an appeal to the Associate Administrator for Finance and Investment, who shall make the final Agency decision.

(c) *Notice to SBA.* When surety has issued the final bonds, surety shall complete Items 19 to 26 on SBA Form

990, or in the case of a bonding line, SBA Form 994C, and submit the form, together with the principal's or the surety's check for the principal's guarantee fee (see § 115.35(b)) to SBA within 45 days after the later date of:

(i) The award of the bonded contract or

(ii) The issuance of the bond(s).

(2) If surety fails to submit such information and check in a timely fashion, SBA's guarantee of the bond shall be void from its inception, but may be reinstated, at SBA's discretion, upon a showing that:

(i) The contract is not in default and

(ii) A valid reason exists why a timely submission was not made.

§ 115.32 Underwriting and servicing standards.

(a) *Underwriting.* Sureties shall adhere to SBA's general principles and practices used in evaluating the credit, capacity, and character of a contractor as set forth in SBA's Surety Bond Guarantee Program Standard Operating Procedure (SOP 50–45), as amended from time to time,[2] and as supplemented by generally accepted standards of the surety business, to assure a reasonable expectation that the principal will perform the covenants and conditions of the contract, and that the terms and conditions of the bond are reasonable in the light of the risks involved and the extent of the surety's participation.

(b) *Servicing.* Sureties shall obtain from obligees of final bonds guaranteed by SBA job status reports on forms approved by SBA. Frequency, form and content of such reports shall be set forth in SOP 50–45 referred to in paragraph (a) of this section.

§ 115.33 SBA's review of surety's underwriting.

The authorized officer (see § 115.31(a)) shall review the surety's underwriting of a bond, taking into consideration the standards specified in § 115.32 for the purpose of making SBA's determination that the principal and the proposed bond(s) are eligible for SBA's guarantee, that there is a reasonable expectation that the principal will perform the covenants and conditions of the contract under consideration, that the terms of the bond are reasonable in the light of the risk involved and the extent of the surety's participation. A bid bond shall not be a forfeiture bond unless issued for a jurisdiction where statute or settled decisional law requires forfeiture bonds for public works.

[2] The SOP may be obtained from SBA' Office of Surety Guarantees.

§ 115.34 Reinstatement after default or failure to pay guarantee fee.

(a) *Conditions for reinstatement.* When legal action against a bond has been instituted, or when surety establishes a claim reserve for such bond, or when surety requests reimbursement of loss under such bond from SBA, or a principal on such bond has failed to pay SBA the fee required by § 115.35(b), the principal's file shall be transferred to SBA's Office of Surety Guarantees, unless that office, in its discretion and with the surety's recommendation, determines that further bond guarantees will assist in the prevention or elimination of loss to SBA. The application file will be retained in that office and the principal, including any affiliates, will not be considered for guarantees of bonds until principal pays the fee or surety has repaid SBA in full for all payments due to an imminent breach or due to the principal's default, as the case may be, or one of the following circumstances exists:

(1) Surety has settled its claim with principal for an amount less than the amount of loss; principal has made an agreed cash payment to surety for a portion of the settlement and has given a note for the balance to surety.

(2) Principal is presented with a claim which it contests and principal provides collateral acceptable to surety which has a liquidation value of not less than the amount of the claim including related expenses.

(3) The principal's indebtedness to the surety is discharged by operation of law as in bankruptcy or any judicial or quasi-judicial process.

(b) *Underwriting after reinstatement.* A guarantee application after default is subject to the most stringent underwriting review, taking into account the previous default, past work experience, present and future financial and work capability, and SBA's budgetary guidelines. While a settlement, as described above, permits reinstatement, prudent underwriting must take into consideration all past experience. Where, however, a surety with full knowledge of past experience is willing to bond the principal again, and states its belief that the principal can complete the proposed contract successfully and without another loss, SBA will give careful consideration to the surety's guarantee application.

§ 115.35 Fees and premiums.

(a) *Surety's premium.* A surety shall charge a principal no amount greater than that authorized by the appropriate insurance department. A surety shall make no requirement of a principal that it purchase casualty or other insurance or any other services from the surety or any affiliate or agent of the surety. A surety shall not make non-premium charges to a principal except where other services are performed and the additional charge or fee is permitted by the appropriate State law or regulation and agreed to by the principal.

(b) *SBA charge to principal.* No application or bid bond guarantee fee shall be charged to the small business by SBA. No bid bond guarantee fee shall be charged by SBA to the surety. If SBA guarantees a payment and/or performance bond, the principal shall pay to SBA to guarantee fee of $6 (six dollars) per thousand dollars (rounded off to the nearest one thousand dollars) of the contract amount (unless SBA agrees otherwise in writing) to be remitted to SBA by surety together with the notice required under § 115.31(c) of this part. See paragraph (c)(2) of this section for additional requirements in the event of certain changes in the bond obligation.

(c) *SBA charge to surety.* (1) Subject to § 115.39(a), a surety shall pay SBA a guarantee fee on each guaranteed bond computed at twenty percent (20%) of the bond premium. SBA shall not receive any portion of a surety's non-premium charges. Surety shall notify SBA of any increases or decreases in such contract or bond amount aggregating $10,000 or more, but no adjustment in fees shall be made therefor: *Provided*, That whenever the bond liability is increased by change order or otherwise, in excess of an aggregate amount of 25% or $50,000, whichever is less (see § 115.13(e)), SBA's approval of such increase(s) by SBA's authorized officer (see § 115.31(a)) on a supplemental SBA Form 990 (OMB Approval No. 3245–0007) shall be conditioned upon payment by the surety, in the normal course of business, of an additional twenty percent (20%) premium share for such increase(s). In these circumstances, the surety's application for approval thereof shall be accompanied by the principal's or the surety's check for the principal's additional guarantee fee for such increase computed as prescribed in paragraph (b) of this section: *Provided, however*, That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded. The surety's application pursuant to this paragraph shall be ineffective without such check for the principal's guarantee fee.

(2) Whenever such contract amount or bond liability is decreased by an aggregate amount in excess of 25% or

$50,000, whichever is less, SBA shall promptly refund to the surety a proportionate amount of the principal's guarantee fee paid to SBA and rebate such proportionate amount of SBA's premium share in the normal course of business: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded. The surety shall promptly pay such SBA refund and a proportionate amount of its premium to the principal.

§ 115.36 Surety bonding line.

(a) *General.* A surety bonding line is a written commitment by SBA to a surety which provides for the issuance of multiple bonds to a specified small business within pre-approved terms, conditions and limitations. A bonding line shall not exceed one year's duration. In addition to the other limitations and provisions set forth in this part 115, the following conditions apply to each surety bonding line (OMB Approval No. 3245–0007):

(b) *Underwriting.* A bonding line may be issued by SBA for a small business if the respective underwriting evaluation is satisfactory. The surety shall require the principal to keep it informed of all its contracts, bonded by the same or another surety or unbonded, during the time limit of the bonding line.

(c) *Application for bonding line.* The surety shall provide SBA with:

(1) In addition to the forms required pursuant to § 115.30(b), information about the small business deemed necessary by SBA;

(2) A determination regarding the limit on the number of contracts covered by SBA guaranteed bonds under the bonding line which the small business may undertake at any one time;

(3) A determination regarding the maximum dollar amount of any single bonded contract the small business can reasonably be expected to perform;

(4) A determination concerning the number and a limit of the total value of all outstanding bids plus uncompleted contracts ("work on hand," bonded by the same or another surety and unbonded) which the small business can reasonably be expected to perform simultaneously;

(5) A determination whether the small business' bonds should be restricted to a specific type or specialty of work or should be restricted to a geographical area.

(d) *Bonding line commitment conditions.* In the event a bonding line is approved, the written commitment shall be conditioned by limitations as follows:

(1) The time period of the bonding line not to exceed one year, subject to renewal in writing;

(2) The total dollar volume of the small concern's bonded and unbonded work on hand at any one time during the period of the bonding line;

(3) The number of such contracts during the period of the bonding line;

(4) The maximum dollar amount of any single guaranteed bonded contract;

(5) The bond covering a given contract shall be dated and issued before the work on the contract has begun (see § 115.10(g)(2)), or surety submits to SBA the documentation required under § 115.10(g)(3); and

(6) Any other limitation related to type, specialty of work, geographical area or credit.

(e) *Excess bonding.* If, after a bonding line is committed, the principal desires a bond and the Surety desires a guarantee exceeding a limitation of the bonding line, an application to SBA may be made under regular procedures.

(f) *Submission of forms to SBA.* Within 15 business days after the issuance of any final bonds under a bonding line, the surety shall submit notice to SBA on forms prescribed by SBA (OMB Approval No. 3245–0007) showing that the bond or bonds have been issued. Surety may use SBA Form 994C (OMB Approval No. 3245–0007) when a completed Form 994B is on file with SBA, except when new financial statements are received from the principal. If the surety fails to submit such form and the related check for the guarantee fee of the principal to SBA in a timely fashion, SBA's guarantee of the bond shall be void from its inception, but may be reinstated, at SBA's discretion, upon a showing that the contract is not in default—see § 115.10(g)(3)—and a valid reason exists why the timely submission was not made.

(g) *Additional information.* In addition to the information required under paragraph (f) of this section, surety shall submit any additional data deemed necessary by SBA.

(h) *Cancellation.* Upon the occurrence of a default, in the opinion of the surety, whether under a contract bonded by the same or another surety or an unbonded contract, the surety shall cancel the bonding line commitment. SBA, if it has approved the bonding line, or the surety may cancel a bonding line commitment at any other time upon written notice to the other party. In either event surety shall promptly notify the principal in writing. Cancellation by SBA will be effective upon receipt of such notice by the surety: *Provided, however,* That bonds issued before the effective date of cancellation shall remain guaranteed by SBA.

§ 115.37 Minimization of loss.

(a) *Indemnification agreements and collateral.* Surety shall take all reasonable action to minimize risk of loss, including, but not limited to, securing from each bonded principal a written indemnification agreement which shall cover actual losses under the contract, and payments pursuant to paragraph (b) of this section, secured by such collateral as the surety and/or SBA may deem appropriate. Other indemnity agreements from other persons or entities, secured by collateral or unsecured, may also be required by the surety and SBA. All SBA requirements concerning collateral and indemnity from parties other than the principal shall be communicated to the surety in the written commitments issued pursuant to §§ 115.31(a) or 115.36(d).

(b) *Imminent breach.* (1) A surety may apply to SBA for an agreement to indemnify such surety against loss sustained when making payments for the purpose of avoiding, or attempting to avoid, an imminent breach of the terms of a specific bond guaranteed by SBA, if the surety can demonstrate to SBA's satisfaction that such breach is imminent and that the principal has no other recourse to prevent such breach. No payment by SBA to avoid imminent breach shall exceed 10 per centum of the contract price, unless the Administrator finds that a greater payment is necessary and reasonable. In no event shall SBA pay an amount exceeding its guaranteed share of the bond penalty, see § 115.30(c), nor shall SBA make any duplicate payment pursuant to this provision or any other provision.

(2) A surety making payments to avoid imminent breach shall keep records concerning such payments that will enable SBA to ensure that its payments do not exceed its guaranteed share of the bond penalty, and that SBA's total payments under its guarantee of a given bond do not include a share of duplicate payments under such bond. See also § 115.32(b).

(c) *Salvage and recovery.* A surety shall pursue all possible sources of salvage and recovery, until SBA consents to discontinuance of such efforts or to a compromise. Such surety shall remit SBA's share of all such collections to SBA within 90 days of receipt by surety. In any dispute between two or more sureties concerning bonds which are guaranteed by SBA, such dispute shall first be brought to the attention of SBA's Office

of Surety Guarantees for an attempt at mediation and settlement.

§ 115.38 Claims for losses.

Claims for reimbursement on account of losses which surety has paid shall be submitted (together with a copy of the bond and the bonded contract with the initial claim) to SBA's Office of Surety Guarantees within one year from the time of each disbursement on SBA Form 994H (OMB Approval No. 3245–0007). Claims submitted after one such year shall be accompanied by complete substantiation to SBA's satisfaction. Loss will be determined as of the date of receipt by SBA of such claim for reimbursement, or as of such later date as additional information requested by SBA is received. Surety shall further submit semiannual status reports on each claim, six months after the initial default notice and in six-month intervals thereafter. SBA may request additional information. Subject to part 140 of this chapter, SBA shall pay its share of loss within ninety (90) days of receipt of the requisite information. Surety shall reimburse or credit SBA (in the same proportion as SBA's share of loss) within ninety (90) days of any recovery or salvage by surety. Claims for reimbursement and any additional information provided are subject to review and audit by SBA, including but not limited to the surety's compliance with SBA's regulations and the requirements of SBA forms.

§ 115.39 Refusal to issue further guarantees.

(a) *Improper surety bond guarantee practices.* SBA at its sole discretion may refuse to issue further guarantees to a surety where SBA finds that the surety, in its underwriting of surety bonds guaranteed by SBA, or in its efforts to minimize loss, or in its claims practices, or its documentation related to such bonds, has failed to adhere to prudent underwriting standards or other prudent surety practices, as compared to those of other sureties participating in the SBA Surety Bond Guarantee Program, including any standards or practices required and communicated by SBA. Acts of wrongdoing such as fraud, material misrepresentation, breach of the guarantee agreement or regulatory violation (as defined in § 115.13 above) shall constitute adequate grounds for refusal to issue further guarantees. SBA may also require the renegotiation of the percentage of its loss guarantee under § 115.10(c) and/or its charge to surety under § 115.35(c), with a surety which experiences excessive losses on SBA-guaranteed bonds, relative to those of other sureties participating in the program to a comparable degree. Such refusals or sanctions will be issued by SBA's Associate Administrator for Finance and Investment. Any surety that has been so sanctioned may file a petition for review of the sanction in accordance with § 134.11(a) of this chapter. Proceedings concerning such petition shall be conducted in accordance with the provisions of part 134 of this chapter. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34 of this chapter.

(b) *Business integrity.* Any person qualifying as a surety, including any officer, director, individual partner, other individual holding twenty or more percent of the surety's voting securities, and any agent, independent agent, underwriter or individual empowered to act on behalf of such person shall be deemed to have good character and (subject to § 115.30(b) of this part) be entitled to present applications for guarantees of bonds: *Provided, however,* That good character shall be presumed absent in the following circumstances:

(1) When a State or other authority regulating insurance (including the surety industry) has revoked or cancelled the license required of such person or engage in the surety business, the right of such person to participate in the program may be denied or terminated as applicable. When such authority has suspended such license, the right to participate may be suspended for the duration of such suspension.

(2) When such person has been indicted or otherwise formally charged with a misdemeanor or felony bearing on such person's fitness to participate in the program, the participation of such person may be suspended until the charge is disposed of. Upon conviction, participation may be denied or terminated.

(3) When such person has suffered an adverse final civil judgment holding that such person has committed a breach of trust or violation of a law or regulation protecting the integrity of business transactions or relationships, participation may be denied or terminated.

(4) When such person has made a material misrepresentation or willfully false statement in the presentation of oral or written information to SBA in connection with an application for a surety bond guarantee or the presentation of a claim thereon, or committed a material breach of the guarantee agreement or a material violation of the regulations (all within the meaning of § 115.13(b)), the participation may be denied or terminated.

(5) When such person is debarred, suspended, voluntarily excluded from or declared ineligible for participation in Federal programs, participation may be denied or terminated.

(c) *SBA proceedings.* Surety shall notify SBA if and when any of the above mentioned persons does not, or ceases to, qualify as a surety under this section. SBA may require submission of SBA Form 912, Statement of Personal History (OMB Approval No. 3245–0178) from any of these individuals. All proceedings for suspensions, terminations from and reinstatements to participation in the Surety Bond Guarantee program shall be conducted in the manner described in subsection (a) of this section. The Administrator may, pending a hearing and decision pursuant to part 134 of this Chapter, suspend the participation of any surety for any of the causes listed in paragraphs (b)(1) through (5) of this section. A guarantee issued by SBA before a suspension or termination under this section shall remain in effect.

§ 115.40 Audits and investigations.

(a) *Audits.* At all reasonable times, SBA may audit in the office of either a participating surety, its attorneys, or the contractor or subcontractor completing the contract all documents, files, books, records, tapes, disks and other material relevant to the Administration's surety bond guarantee, commitments to guarantee a surety bond, or agreements to indemnity the surety. Failure of a surety to consent to such audit or maintain such records shall be grounds for SBA to refuse to issue further surety bond guarantees or to honor claims until such time as the surety consents to such audit: *Provided, however,* That when SBA has so refused to issue further guarantees or to honor such claims, the surety may file a petition for review of such adverse action in accordance with § 134.11(a) of this chapter. Proceedings concerning such appeal shall be conducted in accordance with the provisions of part 134. The Assistant Administrator of the Office of Hearing and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34.

(b) *Records.* The relevant records within the meaning of paragraph (a) of this section shall be maintained for the term of each bond, plus such additional time as may be required to settle claims for which the surety may seek recovery from SBA or attempt salvage or other

recovery and for an additional three years thereafter, and, shall include the following records:

(1) The bond agreement;

(2) All documentation submitted by the principal in applying for the bond;

(3) All information gathered by the surety in reviewing the principal's application;

(4) All documentation of any breach by the principal;

(5) All records of any transactions for which the surety makes payment pursuant to the bond, including, but not limited to, copies of all claims, bills, judgments, settlement agreements and court or arbitration decisions, contracts and receipts;

(6) All documentation relating to efforts to mitigate losses, including documentation required by § 115.37(b) concerning imminent breach; and

(7) Records of any accounts into which fees and funds obtained in mitigation of losses have been paid, and from which payments have been made pursuant to the bond.

(c) *Purpose of audit.* Such audit shall determine but not be limited to

(1) The adequacy of the surety's underwriting and credit analysis;

(2) The adequacy and accuracy of the documentation of claims and the surety's claims settlement procedures and activities;

(3) The minimization of loss, including the exercise of bond options upon contract default; and

(4) The surety's loss ratio in comparison with other sureties participating with SBA to a comparable degree.

(d) *Investigations.* SBA may conduct such investigations as it deems necessary to inquire into the possible violation by any person of the Small Business Act and the Small Business Investment Act of 1958, as amended, or of any rule or regulation under these Acts, or of any order issued under these Acts, or any Federal law relating to programs and operations of the SBA.

(e) *Authority.* Authority for paragraphs (a), (b) and (d) of this section is contained in sections 310(a) and 411(g) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b(a) and 694b(g), and in the Inspector General Act of 1978 (5 U.S.C., App. I).

Subpart C—Preferred Surety Bond (PSB) Guarantees

§ 115.60 Procedures for PSB.

(a) *Applications.* A surety shall make application for admission to PSB in writing to the Director, Office of Surety Guarantees (OSG), Small Business Administration, 4040 N. Fairfax Drive, Suite 500, Arlington, Virginia 22203. That office shall determine the eligibility of the applicant for admission to PSB status (see § 115.10(d)) and review the applicant's standards and procedures for underwriting, administration and claims. A surety admitted to PSB shall execute a "Preferred Surety Bond Guarantee Agreement," before issuing SBA guaranteed bonds, and no SBA guarantee shall attach to bonds issued before SBA's Associate Administrator for Finance and Investment or his designee has countersigned such Agreement.

(b) *Allocation of guarantee authority.* OSG shall allot to each surety admitted to PSB a periodic maximum guarantee authority. No SBA guarantee shall attach to bonds issued by a PSB surety if such bonds are issued within a given period in excess of the allotted authority for such period and no reliance on past or future authority shall be permitted. A PSB surety's allocation shall be increased only by prior written permission of OSG. The penal sum of bid bond guarantees shall count against the allocation until the contract has been awarded, the bid withdrawn or the bid bond has expired (see definition in § 115.11). The release of final bonds shall not restore such periodic allocation.

(c) *Operations.* (1) A PSB surety shall observe all applicable SBA regulations (including but not limited to parts 112, 113, 115, 116 and 117) and obtain from its applicants all the information and certifications required by SBA. The PSB surety shall document such observance of regulations and retain such certifications (including a contemporaneous record of the date of issuance of each bond) in its files, for inspection by SBA or its agents and for submission to SBA in connection with claims made under SBA's guarantee. See also § 115.10(g).

(2) A PSB surety shall issue and administer SBA-guaranteed bonds in the same manner and with the same staff as the surety's activity outside the PSB program. Such surety shall send requests for job status reports to the obligees in accordance with its own procedures.

(3) The PSB surety shall pay SBA 20 percent of the premium of final bonds, and remit to SBA the principal's check or its own check for the principal's guarantee fee of $6 (six dollars) per thousand dollars of the contract or bond amount, according to the PSB surety's own premium base (rounded off to the nearest one thousand dollars). SBA's premium share shall be remitted as agreed between SBA and the PSB surety. The check for the principal's guarantee fee shall be remitted with the bordereau listing the related final bond. See § 115.35(b).

(4) A PSB surety shall advise SBA by monthly bordereau of all bid bonds issued and of the issuance of final bonds or the surety's approval of increases and decreases in the bond liability. SBA's guarantee shall not cover a final bond for which SBA has not received notice on the monthly bordereau for the month in which the bond was issued or the liability increase was approved by the PSB surety, as the case may be. The notice shall contain the name, trade address and employer ID number of the principal, the PSB surety's and SBA's identifying number(s), the obligee's name and address, a brief description of the nature, extent and location of the job, the bid or estimated contract amount and the bond amount.

(5) The PSB surety shall advise SBA within thirty (30) calendar days of the name and address of a principal when legal action against such principal's bond has been instituted or when the obligee has declared a default or when the surety has established a claim reserve. Such surety shall similarly notify SBA within thirty (30) days if SBA's payments under its guarantees have been reimbursed and if surety determines to bond such principal again.

(6)(i) The PSB surety shall process bond liability increases within its allocation (see § 115.60(b)) in the same manner as initial guaranteed bond issuances (see paragraph (c)(4) of this section), present checks for additional fees due from the principal computed on the aggregate increase(s), only if they exceed 25 percent or $50,000, whichever is less, computed pursuant to paragraph (c)(3) of this section and attach such payment(s) to the respective monthly bordereau: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded.

(ii) Where such bond liability is decreased to a like extent, the PSB surety shall promptly remit to the principal SBA's refund of such principal's guarantee fee (see § 115.35(c)(5)(B), and adjust SBA's premium share accordingly in the normal course of business: *Provided, however,* That an adjustment of SBA's premium share or the principal's guarantee fee amounting to less than forty dollars ($40) shall be disregarded.

§ 115.61 Claims for losses.

(a) *How claims are submitted.* A PSB surety shall submit to SBA claims for reimbursement of losses paid on its own

form if such form is approved by SBA no later than one year from disbursement. Loss will be determined as of the date of receipt by SBA of such claim for reimbursement, or as of such later date as additional information or documents requested by SBA are received. SBA may request additional information or documents. Subject to part 140 of this chapter, SBA shall pay its share of loss within ninety (90) days of receipt of the requisite information. The PSB surety shall reimburse or credit SBA (in the same proportion as SBA's share of loss) within ninety (90) days of any recovery or salvage by surety. Claims for reimbursement and any additional information provided are subject to review and audit by SBA.

(b) *Imminent breach.* A PSB surety may make payments to avoid imminent breach without prior SBA approval whether or not such payment exceeds 10 per centum (10%) of the contract price, but SBA's guaranteed share of the aggregate of such payments and of indemnification against loss shall be limited to SBA's guaranteed share of the bond penalty. In no event shall SBA make any duplicate payment pursuant to this paragraph (b) or any other provision of these regulations. A PSB surety making payments to avoid imminent breach shall keep records concerning such payments that will enable SBA to ensure that its payments do not exceed its guaranteed share of the bond penalty, and that SBA's total payments under its guarantee of a given bond do not include a share of duplicate payments under such bond.

§ 115.62 Qualifications of surety.

(a) *Improper surety bond guarantee practices.* SBA at its sole discretion may suspend the preferred status of a PSB surety pursuant to paragraph (d) of this section, where SBA finds that the surety, in its underwriting of surety bonds guaranteed by SBA, or in its efforts to minimize loss, or in its claims practices, or its documentation related to such bonds, has failed to adhere to prudent underwriting standards or other prudent surety practices, as compared to those of other PSB sureties participating in the SBA Surety Bond Guarantee Program. Acts of wrongdoing such as fraud, material misrepresentation, breach of the guarantee agreement or regulatory violation (as defined in § 115.13 above) shall constitute adequate grounds for refusal to continue preferred status. SBA may also require the renegotiation of the percentage of its loss guarantee under § 115.64(a) and/or its charge to surety under § 115.60(c)(3), with a surety which experiences excessive losses on SBA-guaranteed bonds, relative to those of other PSB sureties participating in the program to a comparable degree. Such sanctions will be issued by SBA's Associate Administrator for Finance and Investment. Any surety that has been so sanctioned may file a petition for review of the sanction in accordance with § 134.11(a) of this chapter. Proceedings concerning such petition shall be conducted in accordance with the provisions of part 134 of this chapter. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34 of this chapter.

(b) *Business integrity.* Any person qualifying as a PSB surety, including any officer, director, individual partner, other individual holding twenty or more percent of the surety's voting securities, and any agent, independent agent, underwriter or individual empowered to act on behalf of such person shall be deemed to have good character: *Provided, however,* That good character shall be presumed absent in the following circumstances:

(1) When a State or other authority regulating insurance (including the surety industry) has revoked or cancelled the license required of such person to engage in the surety business, the right of such person to participate in the program may be dined or terminated as applicable. When such authority has suspended such license, the right to participate in the PSB program in any capacity may be suspended for the duration of such suspension.

(2) When such person has been indicted or otherwise formally charged with a misdemeanor or felony bearing on such person's fitness to participate in the program, the participation of such person may be suspended until the charge is disposed of. Upon conviction, participation may be denied or terminated.

(3) When such person has suffered an adverse final civil judgment holding that such person has committed a breach of trust or violation of a law or regulation protecting the integrity of business transactions or relationships, participation may be denied or terminated.

(4) When such person has made a material misrepresentation or willfully false statement in the presentation of oral or written information to SBA in connection with an application for a surety bond guarantee or the presentation of a claim thereon, or committed a material breach of the guarantee agreement or a material violation of the regulations (all within the meaning of § 115.13), the participation may be denied or terminated.

(5) When such person is debarred, suspended, voluntarily excluded from or declared ineligible for participation in Federal programs, participation may be denied or terminated.

(c) *SBA proceedings.* The PSB surety shall notify SBA if and when any of the above mentioned persons does not, or ceases to, qualify as a surety under this section. SBA may require submission of SBA Form 912, Statement of Personal History (OMB Approval No. 3245–0178) from any of these individuals. The Administrator may, pending a hearing and decision pursuant to part 134 of this chapter, suspend the participation of any surety for any of the causes listed in paragraphs (b)(1) through (5) of this section. A guarantee issued by SBA before a suspension or termination under this section shall remain in effect.

(d) *Suspension and termination of preferred status.* SBA reserves the right to suspend the preferred status of a surety by written notice stating SBA's reason(s) for such suspension, at least 30 calendar days prior to the effective date of the suspension. Any bonds issued under SBA's guarantee prior to the effective date of such suspension shall remain covered by SBA's guarantee. Reasons for such suspension, in addition to the defenses listed in § 115.13, shall include, but not be limited to, an excessive loss experience as compared to other PSB surety companies participating with SBA to a comparable degree, a finding of violation of the PSB surety's approved underwriting or claims procedures, or of SBA's regulations, or that the surety no longer meets the qualification for preferred status (§ 115.10(d)). Any surety that has been so suspended may file a petition for review of such suspension in accordance with § 134.11(a) of this chapter. Proceedings concerning such petition shall be conducted in accordance with the provisions of part 134 of this chapter and may result in the surety's termination from surety bond program participation (§ 134.3(i)). The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34.

§ 115.63 Audits and investigations.

(a) *Records and reports.* Each PSB surety shall be audited at least once each year by examiners selected and approved by the Administration. At all reasonable times, SBA may audit in the office of either a PSB surety, its attorneys, or the contractor or

subcontractor completing the bonded contract all documents, files, books, records, tapes, disks and other material relevant to the Administration's surety bond guarantee, or agreements to indemnify the PSB surety. Failure of a PSB surety to consent to such audit or maintain such records shall be grounds for SBA to suspend such PSB surety from participation or to honor claims until such time as the surety consents to such audit: *Provided, however,* That when SBA has so refused to issue further guarantees, the surety may file a petition for review of such refusal in accordance with § 134.11(a) of this chapter. Proceedings concerning such appeal shall be conducted in accordance with the provisions of part 134. The Assistant Administrator of the Office of Hearings and Appeals or an Administrative Law Judge of such office shall be the reviewing official for purposes of § 134.34.

(b) *Time period.* The relevant time period and the records subject to such audit are those listed in § 115.40(b).

(c) *Investigation.* SBA may conduct such investigations as it deems necessary to inquire into the possible violation by any person of the Small Business Act and the Small Business Investment Act of 1958, as amended, or of any rule or regulation issued under these Acts, or of any order issued under these Acts, or of any Federal law applicable to programs or operations of the SBA.

(d) *Authority.* Authority for this section is contained in sections 310(a) and 411(g) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 687b(a) and 694b(g)), and in the Inspector General Act of 1978 (5 U.S.C., App. I).

§ 115.64 Liability of SBA.

(a) *Percentage of Indemnification.* SBA shall indemnify a surety operating under PSB in an amount not to exceed seventy percent (70%) of its loss as that term is defined in § 115.11.

(b) *Grounds for denial of indemnification.* SBA shall deny liability to a PSB surety if:

(1) The total contract amount at the time of issuance of the bond or bonds exceeds $1,250,000, whether or not the liability under the bond(s) exceeds that amount;

(2) The principal is not a small business, as defined in part 121 of this chapter;

(3) The bond is not required under the bid solicitation or the contract;

(4) The SBA guarantee of the bond has been obtained, or the surety has applied for indemnification against losses, by fraud or material misrepresentation, as these terms are defined in § 115.13;

(5) The bond was not eligible for guarantee by SBA because the bonded contract did not comply with the definition of contract in § 115.11;

(6) The loss occurred under a bond that was not guaranteed by SBA;

(7) The loss does not fall within the definition of eligible "loss" in § 115.11;

(8) The loss occurred under a final bond for which the check(s) for the contractor's guarantee fee had not been received with the related bordereau(x) by SBA;

(9) The PSB surety's guaranteed bond was issued without SBA's consent after work under the contract had begun, as defined in § 115.10(g);

(10) The PSB surety's guaranteed bond was issued in an amount which, together with all other such bonds, exceeded the allotment for the period during which such bond was issued and no prior SBA approval had been obtained;

(11) The bond was not listed on the bordereau for the period during which it was issued;

(12) The loss did not result from the principal's breach of the contract for which the guaranteed payment or performance bond were issued;

(13) The loss under an ancillary bond is not attributable to the particular contract for which SBA-guaranteed payment or performance bonds were issued.

(Catalog of Federal Domestic Assistance, No. 59.016 Bond Guarantees for Surety Companies)

Dated: September 22, 1989.

Kay Bulow,

Deputy Administrator.

[FR Doc. 89-26027 Filed 11-8-89; 8:45 am]

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federal register

Thursday
November 9, 1989

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 15, 31, and 52
Federal Acquisition Regulation (FAR); Cost of Postretirement Benefits Other Than Pensions; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15, 31, and 52

Federal Acquisition Regulation (FAR); Cost of Postretirement Benefits Other Than Pensions

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering amending FAR 15.804–8, 31.205–6, 52.216–7, and 52.232–16, and adding 52.215–38 to set forth a new rule on the allowability of postretirement benefits other than pensions on U.S. Government contracts.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 8, 1990 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–70 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405 (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Financial Accounting Standards Board has proposed a rule which would require that, for purposes of financial accounting, certain liabilities and costs be recognized in connection with postretirement benefits other than pensions. The Councils are proposing a rule, for purposes of cost recognition under Government contracts, which would require either payment of the liability or dedicated funding as a condition of allowability. Such a rule would be consistent with the Government's time-honored policy precedent, notably in the qualified pension area, with regard to material distant liabilities. The Councils believe that the cash flow advantages that would inure to contractors, should unfunded accruals be reimbursed under contracts, could not be justified as public policy.

B. Regulatory Flexibility Act

The proposed changes to 15.804–8, 31.205–6(m), 52.216–7, and 52.232–16, and the adding of 52.215–38 clarify a condition of allowability, namely funding or payment, upon those who wish to be reimbursed under Government contracts. As such, there is no administrative burden on businesses of any size. The proposed changes are not expected to have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. An Initial Regulatory Flexibility Act analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and must cite section 89–610 (FAR Case 89–70).

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 15, 31, and 52

Government procurement.

Dated: November 1, 1989.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 15, 31, and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 15, 31, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.804–8 is amended by adding paragraph (f) to read as follows:

15.804–8 Contract clauses.

* * * * *

(f) *Postretirement benefit funds.* The contracting officer shall insert the clause at 52.215–38, Reversion or Adjustment of Postretirement Benefits other than Pensions (PRB) Plans, in solicitations and contracts for which it is anticipated that certified cost or pricing data will be required or for which any preaward or postaward cost determinations will be subject to Subpart 31.2

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Section 31.205–6 is amended by revising paragraph (m)(1); by redesignating paragraph (m)(2) as (m)(3); and adding a new paragraph (m)(2) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(m) *Fringe benefits.* (1) Fringe benefits are allowances and services provided by the contractor to its employees as compensation in addition to regular wages and salaries. Fringe benefits included, but are not limited to, the cost of vacations, sick leave, holidays, military leave, employee insurance, postemployment benefits such as pensions and retiree health care, and supplemental unemployment benefit plans. Except as provided otherwise in Subpart 31.2, the costs of fringe benefits are allowable to the extent that they are reasonable and are required by law, employer-employee agreement, or an established policy of the contractor.

(2) To be allowable in the current year, the costs of postretirement benefits other than pensions (PRB) must be paid either to (i) an insurer, provider, or other recipient as current year costs or premiums, or (ii) an insurer or trustee to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees. Further, to be allowable, costs of the type referenced in 31.205–6(m)(2)(ii) must be calculated and certified according to the provisions of 42 CFR 403.258 (a) and (b) and be funded or otherwise liquidated by the time set for filing the Federal income tax return or any extension thereof. The Government shall receive an equitable share of any amount of previously funded PRB costs which revert or inure to the contractor. Such equitable share shall reflect the Government's previous participation in PRB costs through those contracts for which certified cost or pricing data were required or which were subject to Subpart 31.2.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.215–38 is added to read as follows:

52.215-38 Reversion of adjustment of funds for postretirement benefits other than pensions (PRB) plans.

As prescribed in 15.804-6(e), insert the following clause:

Reversion or Adjustment of Postretirement Benefits Other Than Pensions (PRB) Plans (Oct 1989)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, on inure, to the Contractor or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205-6(m). The Contractor shall include the substance of this clause in all subcontracts under this contract which meet the applicability requirements of FAR 15.804-6(f). The resulting adjustment to prior years' PRB costs will be determined and applied in accordance with FAR 31.205-6(m)(2).

(End of clause)

5. Section 52.216-7 is amended by removing in the title of the clause the date "(APR 1984)" and inserting in its place "(OCT 1989)"; by revising the first sentence of paragraph (b)(2) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

52.216-7 Allowable cost and payment.

* * * * *

(b) * * *

(2) Contractor contributions to any pension or other postretirement benefit, profit-sharing, or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; *provided*, that the Contractor pays the contribution to the fund within 30 days after the close of the period covered. * * *

* * * * *

6. Section 52.232-16 is amended by removing in the title of the clause the date "(AUG 1987)" and inserting in its place "(OCT 1989)" and by revising paragraph (a)(2)(iii) of the clause to read as follows:

52.232-16 Progress payments.

* * * * *

(a) * * *

(2) * * *

(iii) Accrued costs of Contractor contributions under employee pension or other postretirement benefit, profit sharing, and stock ownership plans shall be excluded until actually paid unless—

* * * * *

[FR Doc. 89-26453 Filed 11-8-89; 8:15 am]
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federal register

Thursday
November 9, 1989

Part IV

The President

Proclamation 6061—National Hospice Month, 1989 and 1990

Proclamation 6062—National Glaucoma Awareness Week, 1989

Legislative Department

Federal Register
Vol. 54, No. 216
Thursday, November 9, 1989

Presidential Documents

Title 3—

The President

Proclamation 6061 of November 7, 1989

National Hospice Month, 1989 and 1990

By the President of the United States of America

A Proclamation

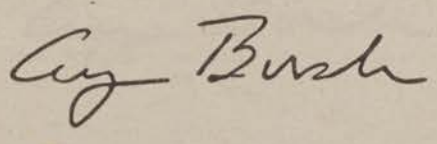
Employing the skills of a full cadre of health care professionals and volunteers—including physicians, nurses, counselors, therapists, and members of the clergy—hospice care enables terminally ill individuals to live peacefully and comfortably in their final days. The dedicated men and women who provide hospice care help terminally ill patients to face natural death without feeling alone or unprepared. They also help patients' families cope with emotional suffering and loss. A vital portion of our Nation's health care system, hospice programs reaffirm the inherent dignity and worth of each individual while underscoring our reverence for human life.

In recent years, the public and private sectors have forged a unique partnership in the development of hospice programs and services for terminally ill individuals and their families. Today, a permanent Medicare hospice benefit and the implementation of a hospice benefit by several State Medicaid programs enable more terminally ill Americans to obtain needed care. Many private insurance companies and employers also provide hospice benefits in health care coverage packages. These programs are helping to ensure that hospice care remains a positive, viable alternative for terminally ill individuals and their loved ones.

In acknowledgment of the value of hospice programs and in grateful recognition of the thousands of health care professionals and volunteers who care for the terminally ill, the Congress, by Senate Joint Resolution 78, has designated the months of November 1989 and 1990 as "National Hospice Month" and has authorized and requested the President to issue a proclamation in observance of these months.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the months of November 1989 and 1990 as National Hospice Month. I urge all government agencies, hospice organizations, health care providers, and the people of the United States to observe these months with appropriate programs and activities designed to encourage recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of our Nation's health care system.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



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Billing code 3195-01-M

Presidential Documents

Proclamation 6062 of November 7, 1989

National Glaucoma Awareness Week, 1989

By the President of the United States of America

A Proclamation

Our eyesight is a great and precious gift. Most of us have been blessed with the ability to see the faces of loved ones, to view the natural wonders that surround us, and to read a good book or informative journal. Tragically, however, too many Americans are at risk of losing their eyesight to glaucoma.

Glaucoma is a serious disease that, if left undetected or untreated, can lead to blindness. In fact, glaucoma is a leading cause of vision loss among older men and women. Black Americans of all ages are also highly vulnerable to this disease, as are persons with diabetes or a family history of glaucoma.

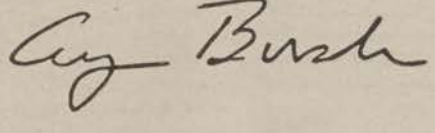
Of the two million Americans known to suffer from glaucoma, some 80,000 are legally blind. It is estimated that several million Americans suffer from ocular hypertension, which is frequently a silent symptom of the disease.

Fortunately, glaucoma is treatable, and blindness from the disease is almost always preventable. However, because glaucoma is often asymptomatic in its early stages, millions of healthy people are unaware that they have the disease. That is why periodic, comprehensive eye exams are so important—especially for those at higher risk of developing glaucoma and other eye ailments.

In recognition of the importance of promoting public awareness about glaucoma and of encouraging all Americans to obtain periodic eye examinations, the Congress, by Senate Joint Resolution 194, has designated the week beginning November 12, 1989, as "National Glaucoma Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning November 12, 1989, as National Glaucoma Awareness Week. I call upon health care providers, private voluntary organizations, and the people of the United States to observe this week with appropriate programs, ceremonies, and activities designed to encourage all Americans to have their eyes examined regularly.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



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Federal Register

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Thursday, November 9, 1989

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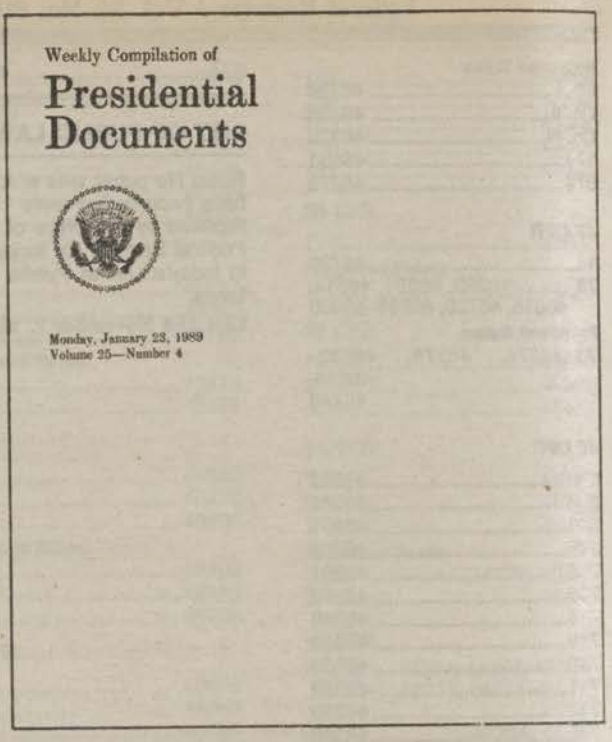

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