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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
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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.

ATLANTA, GA

WHEN: January 11, at 9:00 a.m.
WHERE: Centers for Disease Control
1600 Clifton Rd., NE.
Auditorium A
Atlanta, GA (Parking available)
RESERVATIONS: 1–800–347–1997.

WASHINGTON, DC

WHEN: January 24, 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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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206-AD59

Retirement—Credit for Service

AGENCY: Office of Personnel Management.

ACTION: Final rules.

SUMMARY: The Office of Personnel Management (OPM) is issuing final rules implementing section 110 of Public Law 100–238, enacted January 8, 1988, to provide qualifying employees and annuitants with an opportunity to credit for retirement purposes certain service performed under a personal service contract with a Federal agency.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Eugene R. Littleford, (202) 606–0775, ext. 207.

SUPPLEMENTARY INFORMATION: On October 25, 1988, OPM published interim regulations controlling credit for contract service under CSRS and FERS, generally, and especially applications for credit for contract service under section 110 of Public Law 100–238.

Comments were requested. Two comments were received: one from a Federal agency and one from an attorney for several employee organizations.

The agency objected to the regulatory requirement that the certification of creditability be signed by the head of the agency. It was the agency's conclusion that the head of the agency could delegate the function to a subordinate. OPM cannot concur. The language of the statute is quite explicit in requiring the certification to be made by the head of the agency. Also, the certification imposes a financial liability on the United States Government which did not previously exist, and contravenes existing agency documentation and established legal precedence. As such, the matter merits the attention of the head of the agency. The head of the agency can, however, employ subordinates to develop and review documentation, and make recommendations.

The employee organizations were concerned that the interim regulations could be interpreted to abrogate certain understandings reached between the Office of Personnel Management and the Department of the Army in regard to contract employment with the Army Dependents' Schools. As a consequence of the litigation in the case of *Nancy Hess, et al.* v. *John O. Marsh, et al.*, in the United States District Court for the Southern District of New York, 85 Civ. 9608, OPM agreed to recognize such service as creditable for retirement purposes if the Department of the Army issued appointment documents which incorporated the service in question. Once the appointment documents are issued, the periods of service involved become appointment service, not contract service, and are outside the purview of the statutes and regulations governing the retirement creditability of contract employment. As a consequence, these regulations do not affect the understandings reached between OPM and the Department of the Army, and the employee organization's concerns were unnecessary.

Since the statutory deadline for filing claims under section 110 of Public Law 100–238 expired January 9, 1990, the interim regulations have been rewritten to exclude the agency and OPM procedures for processing these claims. The interim procedures still remain in effect for claims filed before the expiration date that have not been completely processed.

Section 831.309 has been redesignated as 831.307, since that number is now vacant. However, the substance of the regulation has not been changed.

E.O. 12991, Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Parts 831 and 842

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

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, parts 831 and 842 of title 5 of the Code of Federal Regulations are amended as set forth below:

PART 831—RETIREMENT

Subpart C—Credit for Service

1. The authority citation for subpart C of part 831 continues to read as follows:

Authority: 5 U.S.C. 8347.

§ 831.309 [Redesignated as § 831.307]

2. Section 831.309 is redesignated as § 831.307 and is revised to read as follows:

§ 831.307 Contract service.

Contract service with the United States will only be included in the computation of, or used to establish title to, an annuity under subchapter III of chapter 83 of title 5, United States Code, if—

(a) The employing agency exercised an explicit statutory authority to appoint an individual into the civil service by contract; or

(b) The head of the agency which was party to the contract, based on a timely-filed application, in accordance with section 110 of Public Law 100–238, and the regulations promulgated by OPM pursuant to that statute, certifies that the agency intended that an individual be considered as having been appointed to a position in which (s)he would have been subject to subchapter III of chapter 83 of title 5, United States Code, and deposit has been paid in accordance with OPM's regulations.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

Subpart C—Credit for Service

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

Authority: 5 U.S.C. 8461(g).

4. Section 842.309 is revised to read as follows:

§ 842.309 Contract service.

Contract service with the United States will only be included in the computation of, or used to establish title to, an annuity under chapter 84 of title 5, United States Code, if—

(a) The employing agency exercised an explicit statutory authority to appoint an individual into the civil service by contract; or

(b) The head of the agency which was party to the contract, based on a timely-filed application, in accordance with section 110 of Public Law 100–238, and the regulations promulgated by OPM pursuant to that statute, certifies that the agency intended that an individual be considered as having been appointed to a position in which (s)he would have been subject to subchapter III of chapter 83 of title 5, United States Code, and deposit has been paid in accordance with OPM's regulations.

[FR Doc. 90–30355 Filed 12–26–90; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 90–148]

RIN 0579–AA26

Procedures for Importing Animals Through the Harry S Truman Animal Import Center; Approval of Embarkation Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the Harry S Truman Animal Import Center (HSTAIC) to remove certain outdated provisions for an April 1990 lottery. This action is necessary to remove from the regulations deadlines and scheduling dates that have already passed.

EFFECTIVE DATE: December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Teachman or Ms. Peggy Burke, IEAS, VS, APHIS, Room 764, Federal Building, Hyattsville, MD 20782, 301–436–8590.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92, §§ 92.430, 92.431, 92.522 and 92.523 (referred to below as the regulations) set forth the conditions under which importers may qualify animals to enter the United States through the Harry S Truman Animal Import Center (HSTAIC) in Fleming Key, Florida.

On February 23, 1990, we published a final rule in the **Federal Register** (55 FR 6358–6366, Docket No. 89–185), in which, among other things, we established procedures for conducting a lottery to assign priority to applications for use of HSTAIC. We provided that this lottery will be held annually during the first seven days of each October, to determine the priority of applications for the following calendar year. However, the February 23, 1990, final rule was published early enough in 1990 to allow for an additional lottery in calendar year 1990. This additional lottery, held April 30, 1990, was conducted to determine the priority of applications to use HSTAIC during the remainder of 1990.

In the February 23 final rule, we included specific application and scheduling dates for the April 30 lottery. Because that lottery has already taken place, those dates are no longer necessary. Therefore, in this final rule we are making amendments to the regulations to remove the scheduling and deadline provisions specific to the April 30 lottery.

Miscellaneous

In a final rule published in the **Federal Register** and effective on August 2, 1990 (55 FR 31484–31562, Docket 90–023), the regulations in 9 CFR part 92 were reorganized and renumbered. One of the effects of this reorganization is that the regulations concerning the Harry S Truman Animal Import Center are now located in §§ 92.430, 92.431, 92.522 and 92.523, rather than §§ 92.41 and 92.42. The new section numbers in this rule have been changed to reflect the reorganization.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this final rule without opportunity for public comment. This final rule removes provisions in the regulations which relate to a lottery which has already taken place.

Since notice and other public procedures with respect to this final rule are unnecessary under this condition, there is good cause under 5 U.S.C. 553 to make this final rule effective upon publication in the **Federal Register**.

Executive Order 12291

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal Diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.430 [Amended]

2. In § 92.430, paragraph (b)(2)(ii) is removed, and paragraph (b)(2)(iii) is redesignated as paragraph (b)(2)(ii).

3. In § 92.430, paragraph (b)(3)(ii), the last sentence is removed.

4. In § 92.430, paragraph (b)(4), first sentence, the words "Except as provided in paragraph (b)(2)(ii) of this section,

the" are removed, and the word "The" is added in their place.

5. In § 92.430, paragraph (b)(4), the last two sentences are removed.

6. In § 92.430, paragraph (b)(5), the last sentence is removed.

§ 92.522 [Amended]

7. In § 92.522, paragraph (b)(2)(ii) is removed, and paragraph (b)(2)(iii) is redesignated as paragraph (b)(2)(ii).

8. In § 92.522, paragraph (b)(3)(ii), the last sentence is removed.

9. In § 92.522, paragraph (b)(4), first sentence, the words "Except as provided in paragraph (b)(2)(ii) of this section, the" are removed, and the word "The" is added in their place.

10. In § 92.522, paragraph (b)(4), the last two sentences are removed.

11. In § 92.522, paragraph (b)(5), the last sentence is removed.

Done in Washington, DC, this 19th day of December 1990.

William C. Stewart

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-30205 Filed 12-26-90; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AB04

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: Section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") added a new section 5(t) to the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(t) ("HOLA"), that requires the Director of the Office of Thrift Supervision ("OTS") to "prescribe and maintain uniformly applicable capital standards for savings associations." FIRREA also assigns authority to the FDIC for determining the extent to which insured savings associations can recognize purchased mortgage servicing rights for regulatory capital purposes. Therefore, pursuant to FIRREA and the revised section 5(t)(4)(C) of HOLA, the FDIC Board of Directors is adopting revisions to Part 325 of the FDIC's regulations (12 CFR Part 325) that restrict the amount of purchased mortgage servicing rights that savings associations can recognize when calculating the amount of tangible capital under the OTS capital regulation. The Part 325 amendments also place restrictions on the amount of purchased mortgage servicing rights that insured state nonmember banks can recognize in their core capital calculations. Pursuant to FIRREA and section 5(t)(4)(C)(i) of HOLA, the OTS is effectively required to prescribe limits that are at least as stringent as those for state nonmember banks on the amount of purchased mortgage servicing rights that savings associations can recognize when calculating core capital under the OTS leverage and risk-based capital standards.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Robert F. Miailovich, Assistant Director, Division of Supervision (202/898-6918), Stephen G. Pfeifer, Examination Specialist, Accounting Section (202/898-8904), or Claude A. Rollin, Senior Attorney, Legal Division (202/898-3985).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this final rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

Background

Pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), the FDIC proposed to adopt revisions to its capital regulation, 12 CFR part 352, to address the regulatory capital treatment for intangible assets in the form of purchased mortgage servicing rights (55 FR 4616, February 9, 1990). The comment period on this proposal expired on April 10, 1990.

Following a review and evaluation of the comments received in response to this proposal, and after considering related safety and soundness issues, the FDIC Board of Directors has adopted revisions to part 325 of the FDIC's regulations to address the regulatory capital treatment for these intangible assets. Section I of this preamble provides a general discussion of mortgage servicing rights, section II describes the FIRREA provisions affecting these intangible assets, section III discusses the revised regulatory capital treatment of purchased mortgage servicing rights, and section IV summarizes and analyzes the comments received in response to the earlier proposal.

I. Mortgage Servicing Rights

Mortgage servicing rights represent the right to service mortgage loans owned by others. In return for undertaking the contractual obligation to process and pass through principal and interest payments from borrowers to investors, maintain escrow accounts for the payment of taxes and insurance to the appropriate parties, collect delinquent payments, initiate foreclosure actions where appropriate, and perform related servicing functions, the mortgage servicer receives a servicing fee. This fee is generally based on a percentage of the remaining outstanding principal amount of the mortgages being serviced.

These servicing rights can be internally generated or purchased from others. Servicing rights are internally generated when, for example, mortgage loans originated by a financial institution are sold with the servicing retained by the seller. Internally generated mortgage servicing rights for which the stated servicing fee represents a normal servicing fee are not reflected as balance sheet assets. Rather, any income from these rights is recognized over time as earned and the related servicing costs are expensed as incurred. In certain circumstances, if the retained servicing fee exceeds a normal servicing fee, the present value of the excess servicing fee may be reflected as a balance sheet asset and as an upward adjustment to the stated sales price of the underlying mortgages that have been sold. The remaining unamortized balance of this excess servicing fee receivable is normally viewed for accounting purposes as a tangible asset.

However, rather than being internally generated, servicing rights can also be purchased. Under this arrangement, a purchase price is paid by the acquirer of the servicing rights in return for the right to service a pool of loans and receive the service fee income. In addition to the regular servicing fees, late charges and other ancillary income, including income on escrow deposits, are considered when determining the gross revenue to be generated from the servicing pool. Estimated servicing costs, which can also include varying degrees of default or credit risk in addition to processing and administrative costs, are deducted from projected gross servicing revenue in order to arrive at the net servicing fee income (or net cash flow) that is expected to be generated from the servicing portfolio.

The purchase price paid for mortgage servicing rights generally is based on the present value of this expected future stream of net cash flows, computed by using a market discount rate that appropriately reflects the risks associated with the investment in the servicing rights, including credit risk, interest rate/prepayment risk, operational risk, and market risk. The purchase price paid for the servicing

rights is reflected on the balance sheet as an intangible asset and amortized as an expense in proportion to, and over the period of, estimated net servicing income.

II. FIRREA Provisions Affecting Mortgage Servicing Rights

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") was enacted into law on August 9, 1989. Section 301 of FIRREA added a new section 5(t) to the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(t) ("HOLA"). In part, section 5(t) of HOLA, as amended, requires the Director of the Office of Thrift Supervision ("OTS") to "prescribe and maintain uniformly applicable capital standards for savings associations."

In general, FIRREA requires that the OTS capital standards be no less stringent than the capital standards applied by the Office of the Comptroller of the Currency ("OCC") to national banks. The OTS capital standards were published in the **Federal Register** on November 8, 1989 (54 FR 46845) and became effective on December 7, 1989.

FIRREA also assigned authority to the FDIC for determining the extent to which insured savings associations can recognize purchased mortgage servicing rights for regulatory capital purposes. In this regard, FIRREA revised HOLA by adding section 5(t)(4)(C)(ii), which provides that:

> * * * the Corporation [FDIC] shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital.

FIRREA also added section 5(t)(4)(C)(i) to HOLA, which provides that:

> * * * the maximum amount of purchased mortgage servicing rights that may be included in calculating capital under the leverage limit and the risk-based capital requirement * * * may not exceed the amount that could be included if the savings association were an insured state nonmember bank.

Therefore, pursuant to the revised section 5(t)(4)(C) of HOLA, the FDIC Board of Directors has adopted revisions to part 325 of the FDIC's regulations (12 CFR part 325) that restrict the amount of purchased mortgage servicing rights that savings associations can recognize when calculating the amount of tangible capital under the OTS capital regulation. These restrictions are in addition to those already established by the OTS. In this regard, the OTS capital regulation (12 CFR part 567) limits the amount of purchased mortgage servicing rights that can be recognized for purposes of calculating the tangible capital, leverage ratio and risk-based capital standards to the *lower* of (a) 90 percent of their fair market value, (b) 90 percent of the original cost (i.e., the purchase price) of the rights or (c) 100 percent of the current remaining unamortized book value of the rights determined in accordance with generally accepted accounting principles. (See §§ 567.5(a)(2)(iii)(A) and 567.9(c)(1) of part 567.)

The OTS capital regulation indicates that the amount of purchased servicing rights in excess of this limit is to be deducted from both assets and core capital for purposes of calculating core capital under the OTS leverage ratio and risk-based capital standards. In addition, the OTS capital regulation requires purchased mortgage servicing rights to be treated in a similar manner for purposes of calculating the amount of a savings association's tangible capital under the tangible capital standard. Finally, when determining the amount of tangible capital, the OTS capital regulation also requires a deduction for any mortgage servicing rights that exceed limits the FDIC may place on purchased mortgage servicing rights as a percentage of a savings association's tangible capital.

The FDIC is amending its existing capital regulation to specifically limit the amount of purchased mortgage servicing rights that state nonmember banks can recognize for regulatory capital purposes to no more than 50 percent of core capital.[1] Pursuant to FIRREA and section 5(t)(C)(4)(i) of HOLA, the OTS is effectively required to prescribe limits that are at least as stringent as those for state nonmember banks on the amount of purchased mortgage servicing rights that savings associations can recognize when calculating core capital under the OTS leverage and risk-based capital standards.

In addition, with respect to the OTS tangible capital standard for savings associations, the part 325 amendments will limit the amount of purchased mortgage servicing rights to no more than 100 percent [2] of tangible capital.[3]

Notwithstanding the core capital and tangible capital limitations, purchased mortgage servicing rights existing on an institution's books as of February 9, 1990, will be grandfathered and gradually phased out of regulatory capital as the balance sheet intangible assets for these grandfathered rights are amortized to expense, provided that these rights are written off in accordance with certain conditions set forth in the final rule.

An exemption from these restrictions on purchased mortgage servicing rights is permitted if the mortgage servicing activities are conducted in a separately capitalized subsidiary that is engaged in mortgage banking activities and that meets certain additional criteria. These limitations, restrictions and exemptions

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[1] In calculating the core capital limitation, the allowable portion of purchased mortgage servicing rights cannot exceed 50 percent of the amount of core capital (before deducting the disallowed amount of purchased mortgage servicing rights). For example, if core capital (before deducting any disallowed purchased mortgage servicing rights) is $100 million and if purchased mortgage servicing rights (before any deductions) is $70 million, the maximum amount of allowable purchased mortgage servicing rights is $50 million (50 percent x $100 million). Therefore, the other $20 million in purchased servicing rights would be disallowed and deducted from assets and from core capital. As a result, the remaining amount of core capital, after deducting the disallowed purchased mortgage servicing rights, would be $80 million. If core capital and purchased mortgage servicing rights were $100 million and $125 million, respectively, before any deductions for disallowed purchased mortgage servicing rights, the maximum amount of allowable purchased mortgage servicing rights would be $50 million, the other $75 million in purchased mortgage servicing rights would be disallowed, and the remaining amount of core capital (after deducting the disallowed purchased mortgage servicing rights) would be $25 million. If the amount of core capital (before deducting any disallowed purchased mortgage servicing rights) is zero or negative, then the entire amount of purchased mortgage servicing rights is disallowed. In addition to this 50 percent of core capital limitation, purchased mortgage servicing rights also will be subject to the "haircut" provision described in section IV(C) of this preamble.

[2] This tangible capital limitation is based on the amount of a savings association's tangible capital, before deducting the disallowed amount of purchased mortgage servicing rights. For example, if purchased mortgage servicing rights (before deducting disallowed servicing rights) amount to $70 million and if tangible capital (before any such deductions) is, say, $40 million, then the maximum allowable amount of purchased mortgage servicing rights for purposes of calculating a savings association's tangible capital is $40 million. As a result, the remaining amount of tangible capital, after deducting the $30 million in disallowed purchased mortgage servicing rights, would be $10 million. If the amount of tangible capital (before deducting any disallowed purchased mortgage servicing rights) is zero or negative, then the entire amount of purchased mortgage servicing rights is disallowed. In addition to this 100 percent of tangible capital limitation, purchased mortgage servicing rights also will be subject to the "haircut" provision described in section IV(C) of this preamble.

[3] Under the capital standards issued by the OTS, tangible capital is a subset of core capital. Core capital generally consists of tangible capital plus qualifying supervisory goodwill, which will be phased out of core capital over a transition period that expires at year-end 1994. In addition to purchased mortgage servicing rights and qualifying supervisory goodwill, limited amounts of other intangible assets held by savings associations may be recognized for core capital purposes provided the intangibles meet the three-part test set forth in § 567.5(a)(2)(ii) of the OTS capital regulation.

are detailed in section III of this preamble.

Based on June 30, 1990 data, an estimated 50 savings associations held purchased mortgage servicing rights in excess of 25 percent of equity capital and, on a fully consolidated basis, no more than 70 thrifts had purchased servicing intangibles above this 25 percent figure. Of these institutions, an estimated 25 associations had purchased mortgage servicing rights that exceeded 50 percent of capital, which includes 15 institutions that held purchased servicing intangibles in excess of 100 percent of capital.

With respect to state nonmember banks, the June 30, 1990 estimates reflect seven institutions with purchased mortgage servicing rights above 25 percent of equity capital, of which three also held purchased servicing intangibles of more than 50 percent of capital.

III. Revised FDIC Regulatory Capital Treatment for Purchased Mortgage Servicing Rights

Purchased mortgage servicing rights are the only intangible assets that the FDIC recognizes for bank regulatory capital purposes. This recognition is due in part to certain characteristics of mortgage servicing rights that are viewed more favorably than those of other intangible assets. These characteristics include:

(1) The separability of the intangible asset and the ability to sell it separate and apart from the bank or the bulk of the bank's assets;

(2) The certainty that a readily identifiable stream of cash flows associated with the intangible asset can hold its value notwithstanding the future prospects of the bank; and

(3) The existence of a market of sufficient depth to provide liquidity for the intangible asset.

For these reasons, mortgage servicing rights, as a class of intangible assets, generally have been recognized by the FDIC for bank regulatory capital purposes, provided that the carrying amounts of these purchased servicing rights are not excessive in relation to their market value or the level of the bank's capital accounts. The FDIC has reserved the right to deduct purchased mortgage servicing rights that are excessive in relation to capital—that is, rights whose exposure represents a concentration. However, prior to the adoption of the revisions to part 325 that are described in this section, the FDIC never specifically indicated what percentage of capital would be viewed as an excessive concentration.

Although the three characteristics of mortgage servicing rights mentioned above (separability, identifiable cash flow stream, existence of a liquid market) are more favorable than for other intangible assets, the separability, identifiability and marketability aspects of servicing rights are by no means as favorable as that for certain other assets, including many mortgage-backed securities. Therefore, in conjunction with FIRREA's mandate to the FDIC to prescribe limits on the amount of purchased mortgage servicing rights that savings associations can recognize for tangible capital purposes, the FDIC also revisited its policy with respect to state nonmember banks.

In view of the trend among some state nonmember banks and savings associations to invest in purchased mortgage servicing rights in amounts that are large in relation to their capital accounts, and in light of the relative risks associated with investments in mortgage servicing rights, the FDIC has decided to adopt limits on the amount of purchased mortgage servicing rights that may be recognized for regulatory capital purposes.

Some of the credit, interest rate/prepayment, operational and market risks associated with purchased mortgage servicing rights were discussed in the February 9 proposal. In view of those risks, the FDIC proposed to combine all of an institution's purchased mortgage servicing rights for purposes of determining whether a concentration of investment exists. For purposes of analyzing capital adequacy and determining the amount of regulatory capital, the FDIC also proposed to limit the amount of purchased servicing intangibles that may be recognized as a percent of capital.

In light of the risks associated with purchased mortgage servicing rights, the comments received in response to the February 9 proposal, and after considering related safety and soundness issues, the FDIC is adopting a final rule that limits the amount of purchased mortgage servicing rights that can be included in the tangible capital of insured savings associations and in the core capital of insured state nonmember banks. These limitations also will effectively require the OTS to prescribe limits that are at least as stringent as those for state nonmember banks on the amount of purchased mortgage servicing rights that savings associations can recognize when calculating core capital under the OTS leverage ratio and risk-based capital standards.

Specifically, the FDIC is limiting the amount of purchased mortgage servicing rights that may be recognized as part of core capital by a state nonmember bank to no more than 50 percent of core capital. Any purchased mortgage servicing rights over this limit would be *deducted* from assets and from capital before calculating the bank's leverage and risk-based capital ratios.

In addition, for purposes of calculating the amount of a savings association's tangible capital under the OTS capital regulation, the FDIC is limiting the allowable amount of purchased mortgage servicing rights to no more than 100 percent of tangible capital.[4] Several other restrictions, limitations and requirements also would apply to mortgage servicing rights, some of which already are incorporated in the capital standards for thrifts that were issued by the Office of Thrift Supervision in 1989.

Notwithstanding the core capital and tangible capital limitations, purchased mortgage servicing rights existing on an institution's books as of February 9, 1990, that exceed these limitations will be grandfathered and gradually phased out of regulatory capital as the balance sheet intangible assets for these grandfathered rights are amortized to expense, provided that these rights are written off in accordance with certain conditions set forth in the final rule.

Mortgage servicing rights held by a separately capitalized mortgage banking subsidiary would not need to be deducted for regulatory capital purposes, provided that the investments in, and extensions of credit to, the subsidiary are deducted from the parent institution's equity capital accounts when calculating the amount of regulatory capital.

In order to qualify for this separately capitalized subsidiary exception, any extensions of credit and other transactions with the subsidiary also would need to be conducted in compliance with the rules for covered transactions with affiliates set forth in sections 23A and 23B of the Federal Reserve Act, 12 U.S.C. 371c. In this regard, section 301 of FIRREA added a new section 11(a) to HOLA, which provides that sections 23A and 23B of the Federal Reserve Act shall apply to savings associations in the same manner and to the same extent as if the savings

[4] In certain instances, the tangible capital limitation for purchased mortgage servicing rights may be more restrictive than the core capital limitation, especially if the savings association has a significant amount of qualifying supervisory goodwill that is included in core capital but excluded from tangible capital. In these situations, the more restrictive limitation applies for purposes of calculating the savings association's tangible capital requirement.

association were a member bank. Similarly, section 18(j) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(j), provides that sections 23A and 23B of the Federal Reserve Act shall apply, with certain limited exceptions, to every state nonmember bank in the same manner and to the same extent as if the state nonmember bank were a state member bank. Although many bank subsidiaries are technically excluded from the section 23A definition of "affiliate," this final rule requires a mortgage banking subsidiary and its insured parent institution to comply with the rules for covered transactions with affiliates if the parent wishes to treat the subsidiary as a separately capitalized mortgage banking subsidiary.

Disclosures would also need to be included in any contracts entered into by the subsidiary indicating that the subsidiary is not a depository institution but rather is an organization (separate and apart from its parent) whose obligations are not backed or guaranteed by any depository institution nor insured by the FDIC. Provided below is a more detailed explanation of the limitations on purchased mortgage servicing rights for thrifts and insured state nonmember banks.

Purchased mortgage servicings rights will be recognized for regulatory capital purposes under the FDIC's part 325 capital regulation only if the following conditions, limitations and restrictions are met:

(1) *Annual and Quarterly Market Valuations.* An independent market valuation of purchased mortgage servicing rights shall be performed at least annually. The annual independent market valuation shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates. The valuation shall be based on an analysis of the current fair market value of the purchased servicing intangibles, determined by applying an appropriate market discount rate to the net servicing cash flows. This annual independent market valuation may be based on a review and analysis by an independent mortgage servicing valuation expert of the reasonableness of the internal calculations and assumptions used by the institution to determine fair market value. In addition to the annual independent market valuation, the institution shall calculate an estimated fair market value for the purchased mortgage servicing rights at least quarterly.

(2) *Quarterly Determination of Book Value.* Purchased mortgage servicing rights shall be carried at a book value that does not exceed the discounted amount of estimated future net servicing income of the rights. Management of the institution shall review the carrying value at least quarterly, maintain a written record of its review, and adjust the book value as necessary. If unanticipated prepayments occur, a writedown of the book value of the purchased mortgage servicing rights should be made to the extent that the discounted amount of future net servicing income is less than the asset's carrying amount. Although generally accepted accounting principles allow the evaluation of future net servicing income to be performed on either a discounted or an undiscounted basis, the discounted approach shall be used if the institution wishes to allow its purchased mortgage servicing rights to be recognized for regulatory capital purposes.

(3) *Mortgage Servicing Rights Limitation.* For regulatory capital purposes (but not for financial statement purposes), the balance sheet asset for purchased mortgage servicing rights will be reduced to an amount equal to the *lesser* of:

(a) 90 percent of the fair market value of the purchased mortgage servicing rights, determined in accordance with paragraph (1) above; or

(b) 90 percent of the original purchase price paid for the mortgage servicing rights; or

(c) 100 percent of the remaining unamortized book value of the servicing rights, determined in accordance with paragraph (2) above.

(4) *Core Capital Limitation.* The maximum allowable amount of a state nonmember bank's purchased mortgage servicing rights will be limited to the *lesser* of:

(a) 50 percent of the amount of core capital that exists before the deduction of any disallowed purchased mortgage servicing rights; or

(b) the amount of purchased mortgage servicing rights determined in accordance with paragraph (3) above.

(5) *Tangible Capital Limitation for Savings Associations.* The maximum allowable amount of purchased mortgage servicing rights for purposes of calculating a savings association's tangible capital under the capital regulation issued by the OTS (12 CFR part 567) shall not exceed the *lesser* of:

(a) 100 percent of the amount of tangible capital that exists before the deduction of any disallowed purchased mortgage servicing rights; or

(b) the amount of purchased mortgage servicing rights determined in accordance with paragraph (3) above.

This tangible capital limitation is established pursuant to section 5(t)(4)(C) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(t).

(6) *Grandfathering.* Notwithstanding the core capital and tangible capital limitations described in paragraphs (4) and (5) above, any otherwise disallowed purchased mortgage servicing rights on the books of an institution as of February 9, 1990, and any otherwise disallowed purchased mortgage servicing rights for which the institution on or before that date had entered into a contract to purchase the servicing rights, may be grandfathered and recognized for regulatory capital purposes to the extent permitted by the institution's primary federal regulator, provided that the book value of these purchased mortgage servicing rights is amortized to expense in accordance with generally accepted accounting principles and in accordance with paragraph (2) above. Grandfathered purchased mortgage servicing rights will count toward the core capital and tangible capital limitations described in paragraphs (4) and (5) above. To the extent that grandfathered purchased mortgage servicing rights exist, the allowable amount of nongrandfathered purchased mortgage servicing right will be reduced accordingly.

(7) *Exemption for Certain Mortgage Banking Subsidiaries.* Purchased mortgage servicing right held by subsidiaries that would otherwise be consolidated for regulatory capital purposes will not be subject to the deductions and limitations described above provided the subsidiary is a separately captalized subsidiary that is engaged in mortgage banking activities. For purposes of this part, a mortgage banking subsidiary may be deemed to be separately captalized provided that:

(a) The parent institution's investment in, and extensions of credit to, the subsidiary are deducted from equity capital when calculating regulatory capital (for serving associations, this deduction will be made from equity capital as that tern is defined for purposes of Schedule CCR of the Thrift Financial Report);

(b) Extensions of credit and other transactions with the subsidiary are conducted in compliance with the rules for covered transactions with affiliates set forth in sections 23A and 23B of the Federal Reserve Act, 12 U.S.C. 371c; and

(c) Any contracts entered into by the subsidiary shall include a written disclosure indicating that the subsidiary is not a bank or savings association, the subsidiary is an organization separate and apart from any bank or savings

association, and the obligations of the subsidiary are not backed or guaranteed by any bank or saving association nor insured by the FDIC.

This exemption will not apply if the institution's primary federal regulator determines that the mortgage banking subsidiary's transactions with its parent institution are not conducted on an arms-length basis. Whenever this exemption applies, the assets and liabilities of the mortgage banking subsidiary of a state nonmember bank need not be consolidated for purposes of calculating regulatory capital, provided that all investments in, and extensions of credit to, the subsidiary are deducted from assets and equity capital when calculating regulatory capital under this part.

(8) *Case-by-Case Exemption.* A savings association may receive a temporay case-by-case exemption from the tangible capital limitation mentioned in paragraph (5) above in certain limited instances, which are described in Section IV(F) of this preamble.

IV. Summary and Analysis of Comment Letters

A number of risks associated with mortgage servicing rights, including credit risk, interest rate/prepayment risk, operational risk, and market risk, can cause investments in purchased mortgage servicing rights to be much riskier than investments in many tangible assets. In view of this, the FDIC issued a purchased mortgage servicing rights proposal that would place limitations on the amount of purchased mortgage servicing rights that could be recognized by state nonmember banks and savings associations for regulatory capital purposes (55 FR 4616, February 9, 1990). In addition, the FDIC requested comment on a number of specific issues relating to the proposal.

During the comment period, a total of 96 responses were received. Nearly one-half (47 letters) were submitted by savings associations, 15 responses were received from banks and mortgage banking companies, and 14 comments were submitted by various trade associations that represent members in the thrift, banking, mortgage banking, or real estate industries. The remaining 20 letters were received from members of Congress, government agencies involved in the guarantee or purchase of residential mortgage loans or the sale of servicing rights, federal and state banking regulators, financial institution consultants and mortgage servicing brokers.

Comments received from the Federal Reserve Board staff and from the New Hampshire Banking Department generally supported measures to limit excessive concentrations in intangible assets such as purchased mortgage servicing rights. Comments from the staff of the Resolution Trust Corporation (RTC) suggested that the FDIC should regulate mortgage servicing based on the type of servicing involved and the relative strength or weakness of the individual insitution. A number of respondents, including the Office of Thrift Supervision (OTS) and the RTC, supported placing additional emphasis on the use of appropriate valuation standards, together with the restrictions on purchased mortgage servicing rights already incorporated in the OTS capital regulation, which limits the amount of purchased servicing intangibles to no more than 90 percent of fair market value.

At the same time, the great majority of respondents, including the Office of Thrift Supervision, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Department of Veterans Affairs (VA) and the various trade associations believed that the proposed limitations on mortgage servicing rights as a percent of capital would impose a restriction on insured depository institutions that went beyond the intent of Congress and that would depress the market prices for mortgage servicing rights, increase the costs incurred by the Resolution Trust Corporation in selling the servicing held by failed thrifts, drive additional financial institutions into insolvency, increase the borrowing costs of mortgage loans, and reduce the availability of home financing to the American consumer.

The RTC staff estimated that the planned rule, if adopted as proposed, could cause the RTC to absorb additional losses of at least $250 million due to the adverse impact the rule would have on the value of mortgage servicing rights that are currently held or expected to be acquired by the RTC due to thrift failures. The RTC comment letter also indicated that the expected shift of mortgage servicing rights from insured depository institutions to nondepository institutions will depress the market value of mortgage servicing rights over the short-term but that the market for mortgage servicing will recover over the long-term.

In view of these issues, many respondents suggested that the FDIC use an approach that automatically recognizes purchased mortgage servicing rights for regulatory capital purposes and that would only deduct these rights if, on a case-by-case basis, the FDIC determines that the book value of the rights is excessive in relation to the market value of the rights or the capital accounts of the institution. Other respondents also indicated that, in any event, these limitations should not be applied to excess mortgage servicing fees receivable since excess servicing assets are viewed for accounting purposes as tangible assets rather than as intangible assets.

The FDIC carefully reviewed the comments that were received in response to the February 9 proposal. Based on an analysis of these comments and on related safety and soundness issues, the FDIC had decided to adopt limitations on the amount of purchased mortgage servicing rights that state nonmember banks and savings associations can recognize for regulatory capital purposes. The final rule only addresses intangible assets in the form of purchased mortgage servicing rights and mortgage-backed, interest-only strips, even though these other assets also have disproportionate prepayment/interest rate risks similar to those inherent in purchased mortgage servicing rights.

The FDIC believes it would be theoretically preferable to address all of these mortgage-backed derivatives in a single pronouncement. Such a broad-based policy could be directly applied to state nonmember banks, for which the FDIC is the primary federal banking supervisor. However, with respect to savings associations, FIRREA only gave FDIC the authority to prescribe limits on the amount of purchased servicing intangible assets that savings associations can recognize for tangible capital purposes. In view of this statutory limitation, the FDIC has limited the scope of this final rule to intangible assets in the form of purchased mortgage servicing rights.

Nonetheless, many of the risks associated with purchased mortgage servicing rights are also present in excess mortgage servicing rights and mortgage-backed, interest-only strips, notwithstanding the fact that the latter two are viewed as tangible rather than intangible assets. In addition, a supervisory policy statement adopted by the FDIC Board of Directors in April 1988 indicates that mortgage-backed, interest-only strips are not suitable investments for the vast majority of depository institutions. As a result, the FDIC will carefully scrutinize state nonmember banks with excessive holdings of these tangible assets and may deduct part or all of the book value of these assets for regulatory capital purposes if they are excessive in relation to their fair value or the capital

accounts of the institution. The FDIC expects to coordinate its efforts in this regard with the other federal regulators with a view toward assuring a consistent and prudent supervisory approach toward these tangible assets.

Provided below is more specific information as to the comments received on various aspects of the proposal and on modifications made by the FDIC before adopting the final rule.

A. Market Valuation

In order for purchased mortgage servicing rights to be recognized for regulatory capital purposes, the proposal indicated that an independent market valuation would need to be performed at least annually and that the valuation should include adjustments for any changes in original valuation assumptions, including unanticipated prepayments. Many respondents commented on the issue of what would be necessary for an "annual independent market valuation" and whether the valuation should be based on a "fair market value" or an "economic value" approach.

In the final rule, the FDIC has retained the provision that an annual independent market valuation is to be performed if the institution wishes to recognize the purchased mortgage servicing rights for regulatory capital purposes. However, it has been clarified that an annual independent market valuation may be based on a review and analysis by an independent mortgage servicing valuation expert as to the reasonableness of the internal fair market value calculations and assumptions used by the management of the institution.

In addition, a new provision has been added to the final rule that requires the institution to internally calculate a fair market value for the mortgage servicing rights at least quarterly.

The final rule also provides that, for purposes of calculating the quarterly internal valuation and the annual independent market valuation, a "fair market value" approach should be used (rather than an "economic value" approach). In this regard, net servicing cash flows, which should include servicing fees and related ancillary income less servicing costs, including fully allocated overhead and administrative costs, would need to be estimated. In addition, a present value would be calculated based on a pre-tax market discount rate being applied to these pre-tax net servicing cash flows.

In determining whether to acquire a particular servicing portfolio, the FDIC realizes that an institution may also calculate an estimated "economic value" for a servicing portfolio by taking into consideration applicable income tax rates, the application of an after-tax discount rate to the amount of after-tax cash flows, a specific debt-to-equity mix that will be used to fund the purchased servicing investment, and an institution's own targeted internal rate of return on equity. However, the final rule requires the annual independent market valuation and the quarterly internal market valuations to be based on a fair market value rather than an economic value approach if the institution wishes to recognize the purchased servicing intangibles for regulatory capital purposes.

This fair market value requirement is consistent with the provisions in FIRREA and in section 5(t)(C) of the revised Home Owners' Loan Act of 1933 that limit the amount of purchase mortgage servicing rights savings associations can recognize for regulatory capital purposes to no more than 90 percent of the "fair market value of readily marketable purchased mortgage servicing rights" and that further require the fair market value to be determined "not less often than quarterly."

In calculating the estimated fair market value, the FDIC generally would expect the prepayment assumptions used in this valuation to be based on the long-term consensus prepayment speed estimates currently used by market participants for similar mortgage loans, rather than on a particular institution's short-term historical prepayment experience or on its own unique prepayment estimates. The discount rate used in determining the present value of the mortgage servicing cash flows also should be based on a current market interest rate that adequately reflects the risks inherent in purchased servicing intangibles.

In view of the risks associated with purchased mortgage servicing rights, this discount rate would need to be significantly higher than the cost of funds, the rate on U.S. Treasury securities, or the rate on the underlying mortgage loans. Although the appropriate market discount rate may vary based on the particular type of servicing portfolio and as market conditions change, the FDIC believes it would be difficult to justify a discount rate of less than 15 percent in the current market environment. Many servicing portfolios, including those with higher risk profiles, may warrant a discount rate well above that level.

This methodology for valuing purchased mortgage servicing rights is generally consistent with the valuation guidance already set forth by the Office of Thrift Supervision in its Thrift Bulletin No. 43 on "Valuation of Excess Servicing Assets" (TB 43) that was issued on January 16, 1990. TB 43 places emphasis on using a market interest rate that reflects the inherent risk associated with the cash flows when determining the appropriate discount rate. TB 43 also recommends using a long-term market consensus of prepayment speeds for similar loans when calculating the appropriate prepayment estimates.

B. Determination of Book Value

In order to be recognized for regulatory capital purposes, the FDIC proposal would have required purchased mortgage servicing rights to be carried at a book value that does not exceed the estimated future net servicing income of the rights and would require management to review the book value at least quarterly, maintain a written record of its review, and adjust the book value as necessary. Although generally accepted accounting principles allow the subsequent evaluations of future net servicing income on purchased mortgage servicing rights to be performed on either a discounted or an undiscounted basis when determining whether a writedown of the book value is necessary, the proposal would have required the discounted approach to be used if purchased mortgage servicing rights exceed 25 percent of core capital.

The final rule will continue to require the evaluation of the book value to be performed on a quarterly basis and the maintenance of a written record by management of its review if it wishes to allow its purchased mortgage servicing rights to be recognized for regulatory capital purposes. However, in view of the accounting issues and safety and soundness concerns that are discussed below, the 25 percent *de minimus* exception has been removed. As a result, if an institution wishes to allow its purchased mortgage servicing rights to be recognized for regulatory capital purposes, a discounted approach must be used when determining if any subsequent writedown of the book value of purchased servicing is necessary.

The Financial Accounting Standards Board (FASB) Emerging Issues Task Force Issue No. 86-38A specifically discusses the evaluation of purchased mortgage servicing rights and indicates that either a discounted or an undiscounted approach could be used when determining whether a writedown is necessary due to unanticipated prepayments. However, if an undiscounted approach is used in this evaluation a writedown of the mortgage

servicing intangible would not be necessary even though significant, unanticipated prepayments may have occurred, provided that the undiscounted amount of the revised projected cash flows is not less than the book value for the purchased servicing intangible. That is, the expected rate of return on the servicing portfolio could fall from, say, an initial estimate of 15 percent to a revised estimate of one percent based on unanticipated prepayments, but as long as the revised return is still estimated to be positive, no writedown of the book value would be required under generally accepted accounting principles if an undiscounted approach is used.

The FDIC believes that such an accounting practice can be unsafe or unsound, especially if the purchased mortgage servicing rights are being recognized for regulatory capital purposes, because such an accounting technique does not promptly recognize losses in the inherent value of the servicing rights that arise as a result of unanticipated prepayments or other factors that may cause projected future cash flows to be lower than originally anticipated.

In addition, another potential accounting anomaly can arise in that, even if an investment in a purchased mortgage servicing pool is now expected to have a negative rate of return (i.e., the revised projected undiscounted cash flows are less than the remaining book value for the purchased servicing intangible), the potential writedown of the purchased servicing intangible asset for this servicing pool could conceivably be avoided by acquiring a new servicing pool and combining the newly acquired servicing pool with the existing pool, thereby allowing for a blended rate of return that is positive. In this case, deferral of any loss recognition on the existing pool might if both pools are evaluated on a composite basis (rather than a pool-by-pool basis) and if an undiscounted approach is used for determining whether a writedown is necessary on the aggregate purchased servicing book value.

The FDIC believes that such a composite, undiscounted accounting method is inappropriate if the purchased servicing intangibles are to be recognized for regulatory capital purposes, regardless of the level of an institution's purchased servicing in relation to capital. As a result, the final rule requires the use of the discounted approach cited in FASB Emerging Issues Task Force Issue No. 86-38A if the institution wishes to have its purchased mortgage servicing rights recognized for regulatory capital purposes.

A number of respondents, including those that generally favored a case-by-case approach rather than regulatory limitations on purchased mortgage servicing rights, nonetheless supported the requirement that the discounted approach cited in FASB EITF 86-38A be used for purposes of the institution's financial statements rather than an undiscounted approach.

C. Mortgage Servicing Rights Limitation

In addition to making quarterly fair market value and book value evaluations as noted in sections IV(A) and IV(B) above, the final rule also would require a "haircut" to be applied to purchased mortgage servicing rights in determining the allowable amount that may be recognized for regulatory capital purposes. This haircut approach is essentially the same as the one already set forth for savings associations in the OTS capital regulation. In effect, the provision limits the allowable amount of purchased mortgage servicing rights to the lesser of (1) 90 percent of fair market value, (2) 90 percent of the original purchase price, or (3) 100 percent of book value.

With the adoption of the FDIC's amendments to part 325, this haircut will now also apply to state nonmember banks. Although many respondents were opposed to the core capital and tangible capital limitations described below, many commentators supported the use of prudent valuation standards and a haircut approach as mechanisms for limiting potential abuses in the accounting and regulatory capital treatment for purchased mortgage servicing rights. As a result, the FDIC has decided that the haircut that is already applied to the purchased mortgage servicing rights of savings associations should also be applied to the purchased servicing intangibles of state nonmember banks.

D. Core Capital and Tangible Capital Limitations

By far the most controversial portions of the FDIC proposal were the provisions that would limit the amount of a state nonmember bank's purchased mortgage servicing rights to no more than 25 percent of core capital and the amount of a savings association's purchased servicing intangibles to no more than 50 percent of tangible capital. These restrictions were particularly criticized by a number of savings association respondents, who believed such capital limitations were overly restrictive, were not in keeping with Congressional intent, would prevent institutions from obtaining the necessary servicing volume (via purchases of servicing) to facilitate efficient economies of scale, and would effectively eliminate from consideration the use of purchased servicing as one possible mortgage-related investment that could be used to meet the thrift Qualified Thrift Lender (QTL) test.

Many of these same respondents feared that these restrictions would depress market values for servicing, hinder the RTC's ability to dispose of the servicing of the failed thrifts, remove a source of profitable earnings, and prevent the use of servicing as a hedge against the interest rate risk of long-term, fixed-rate mortgages.

The FDIC has carefully considered these views, as well as the possibility of using just a case-by-case approach for determining whether an excessive concentration exists. However, based on the comments received, there is a wide disparity of opinion as to how large this concentration can be before it is deemed excessive, with a number of commentators suggesting that purchased servicing intangibles should be able to equal as much as 30 percent of total assets. Based on the general nature of the risks associated with purchased mortgage servicing rights, the FDIC believes such a concentration would be excessive and would represent an unsafe or unsound practice.

In addition, the FDIC believes it more appropriate to view concentrations in purchased servicing intangibles as a percent of capital rather than assets and, for purposes of calculating regulatory capital, to limit the exposure of such intangible assets to a fraction of capital rather than a multiple thereof. From a prudent supervisory standpoint, the FDIC believes that the allowable amount of purchased servicing rights recognized for regulatory capital purposes generally should not exceed one-fourth (or 25 percent) of an institution's capital amounts. Such a limitation would be consistent with the FDIC's original proposal.

However, based on the comments received and in an effort to provide some degree of flexibility to examiners and to sound, well-run institutions in those situations where the risks associated with purchased servicing are being controlled in an acceptable manner, the FDIC has modified the limitations contained in the original proposal. Therefore, the limitations have been revised upward in the final rule so that the maximum allowable amount of purchased mortgage servicing rights of a state nonmember bank shall not exceed 50 percent of core capital and the maximum allowable amount of purchased servicing intangibles for a savings association shall not exceed 100 percent of tangible capital.

Furthermore, in calculating these limitations, the respective percentages will be applied to the amount of the institution's core or tangible capital *before* any deductions of disallowed purchased mortgage servicing rights. The earlier proposal would have been more restrictive in that the percentage limitations would have been based on the amount of capital *after* deducting any disallowed purchased servicing intangibles.[5]

The implementation of a restriction on purchased servicing intangibles as a percent of capital is consistent with the OCC's capital rules for national banks, which limit purchased mortgage servicing rights and other qualifying intangibles to no more than 25 percent of core capital, effective December 31, 1990. It is noted that the OCC has issued for comment an advance notice of proposed rulemaking on the capital treatment of intangible assets (55 FR 40843, October 5, 1990), which includes a specific request for comment on the OCC's 25 percent of core capital limit. However, no specific changes have been proposed for the 25 percent core capital limitation that is set forth in the OCC's risk-based and leverage capital standards, which already have been adopted in final form and which are still scheduled to take effect at year-end 1990.

The FDIC's final action to limit purchased servicing intangibles as a percent of capital is also broadly consistent with the Federal Reserve's risk-based and leverage capital guidelines, which accord particularly close scrutiny to identifiable intangibles such as servicing rights that exceed 25 percent of tangible capital. In addition, the Federal Reserve generally requires institutions that are seeking to undertake expansion or engage in new activities, or that otherwise are facing unusual or abnormal risks, to maintain strong capital positions without undue reliance on intangible assets. The percentage limitation is also in line with the RTC staff's suggestion that, if a limitation is adopted for the allowable amount of purchased mortgage servicing rights as a percent of capital, it should be in the range of 50 to 75 percent.

Although purchased servicing rights do possess substantial risks, some respondents contended that all purchased servicing should not be lumped together for concentration purposes, but rather that the mortgages underlying the servicing should be broken down by geographic area, product type (e.g., VA/FHA vs. conventional, fixed rate vs. adjustable rate, high mortgage coupon rates vs. low coupon rates) or based on some other criteria, such as the extent of credit or default risk. Under this process, each different type of mortgage servicing rights would be segmented and evaluated separately in determining whether any concentrations of capital exist. However, the FDIC believes that the general nature of the various, interrelated risks to which servicing rights are exposed, when viewed in their totality, support the combination of all purchased servicing rights as a single exposure for concentration purposes.

Some respondents argued that, although purchased servicing rights may be exposed to various credit, interest rate/prepayment, operational and market risks, a diversified pool of purchased servicing rights would have reliable cash flow characteristics that can be used as a hedge against the interest rate risk on long-term, fixed-rate mortgages. However, significant prepayment uncertainties continue to exist even with such a diversified pool and unanticipated prepayments can have a greater impact on purchased mortgage servicing rights than on many other mortgage-related investments due to the disproportionate interest rate risk inherent in purchased mortgage servicing rights.

In addition, the ability to effectively use an investment in purchased servicing as a hedge against long-term, fixed rate assets raises many potential supervisory concerns. These include whether high correlation can realistically be achieved and whether the purchased servicing (in view of the due diligence required to sell a servicing portfolio) can be promptly liquidated without a significant market loss as the mix of underlying assets being hedged changes. Both the potential basis risk inherent in such a hedging arrangement and the lack of immediate liquidity limit the ability of purchased servicing to act as an effective hedge. As a result, the FDIC does not believe excessive amounts of purchased servicing intangibles should be recognized for regulatory capital purposes, even when such intangibles are ostensibly being used to hedge interest rate risk.

Concerns over a regulatory capital limitation on mortgage servicing rights and its potential impact on the market for servicing and the solvency of the affected institutions were considered in the drafting of the original proposal, which included both the grandfathering of existing purchased mortgage servicing rights and an exemption for purchased servicing intangibles held by a separately capitalized mortgage banking subsidiary. In addition, as described in Section IV(E) of this preamble, revisions were made in the final rule to further liberalize the grandfather provisions.

With respect to limitations on purchased servicing intangibles as a percent of capital, this final rule does not differentiate between servicing rights with different levels of recourse or credit risk. Many recourse arrangements are already captured by the capital regulations of the federal banking and thrift regulators. In this regard, the banking agencies and the OTS generally require institutions that sell mortgage or other assets with recourse to maintain capital for these exposures. For example, institutions may acquire servicing by purchasing conventional loans and shortly thereafter selling the mortgages with significant recourse for default or credit risk but retaining the servicing rights. Under the existing risk-based capital requirements of all of the federal regulatory agencies, capital would need to be maintained for the risk associated with these assets sold with recourse.

The FDIC acknowledges that other services could subsequently purchase this "recourse" servicing from the original seller/servicer or may be exposed to additional risk of loss in their servicing portfolios due to such features as the "no-bid option" that the Department of Veterans Affairs retains in connection with VA-insured mortgage loans. Although not all of these recourse arrangements may be directly addressed in the existing capital standards, they are covered in the request for comment on the regulatory capital treatment for recourse arrangements that was issued by the Federal Financial Institutions Examination Council earlier this year (55 FR 26766, June 29, 1990). The final determination as to the appropriate capital treatment for recourse arrangements such as purchased "recourse" servicing and "VA-no bid" servicing is within the scope of the

[5] For example, as set forth in footnote 1 to this preamble, if core capital and purchased mortgage servicing rights are equal to $100 million and $70 million, respectively, before deducting the disallowed amount of purchased mortgage servicing rights, the maximum amount of allowable purchased mortgage servicing rights would be $50 million. Thus, after deducting the $20 million in disallowed purchased servicing intangibles, the remaining amount of core capital would be $80 million. The original proposal would have been more restrictive in that the core capital limitation would have been based on the amount of core capital after deducting the disallowed purchased mortgage servicing rights. Thus, assuming a 50 percent core capital limitation and the other figures noted above, the original proposal would have disallowed $40 million in purchased mortgage servicing rights so that the allowable amount of purchased mortgage servicing rights ($30 million) would not exceed 50 percent of the remaining amount of core capital ($60 million).

broader project on recourse arrangements and therefore is not specifically addressed in this final rule.

Certain respondents suggested that, in return for a case-by-case supervisory approach regarding any possible capital limitations on purchased mortgage servicing rights, they would be willing to have their insured depository institutions subject to an enhanced level of supervision, detailed reporting requirements, conservative valuation and accounting practices, and diversification of their servicing portfolios within certain parameters. The FDIC considered these suggestions in conjunction with its reconsideration of the original proposal and its review of the comment letters that were received.

The FDIC encourages initiatives that may help to control and reduce risks associated with investments in purchased mortgage servicing rights. However, in view of the disproportionate interest rate/prepayment risks inherent in purchased servicing intangibles, as well as the other risks generally associated with these intangible assets, the FDIC continues to believe that purchased mortgage servicing rights should be viewed as a single investment for concentration purposes and limited as a percent of capital for regulatory capital purposes.

E. Grandfathering of Existing Mortgage Servicing Rights

For those institutions with purchased mortgage servicing rights in excess of the core capital or tangible capital limitations, the FDIC proposal would have "grandfathered" those purchased servicing rights acquired on or before the date FIRREA was enacted (August 9, 1989) and these servicing rights would have been phased out of regulatory capital over a six-year transition period that would begin with the effective date of the rule. Most respondents disagreed with this grandfather provision and with the cutoff date used for this grandfathering process.

With respect to the proposed grandfather date, many respondents considered it to be inequitable to affected institutions since a cutoff date would be used that even precedes the date on which the FDIC issued its proposal. These commentators generally recommended that the grandfather date should either be the date the proposal was issued or the effective date of the regulation.

The FDIC has decided to modify the grandfather date from the date FIRREA was enacted to the date the proposal appeared in the **Federal Register**. Therefore, the final rule grandfathers all purchased mortgage servicing rights that were acquired or contracted for on or before February 9, 1990.

Many respondents also argued that the proposal, by providing only a six-year phase-out period for existing purchased mortgage servicing rights, did not provide for a true "grandfather" of these rights. In this regard, the amortization of purchased servicing intangibles in accordance with generally accepted accounting principles normally would be over a term that exceeds six years. In order to simplify the grandfathering provision and address this concern, the FDIC has removed the six-year transition period and replaced it in the final rule with a provision that allows grandfathered purchased servicing to be phased out of regulatory capital as the book value is amortized to expense in accordance with generally accepted accounting principles, subject to the 15-year maximum amortization period that part 325 already applies to the purchased mortgage servicing rights of state nonmember banks.

Statement of Financial Accounting Standards No. 65, "Accounting for Mortgage Banking Activities" (FASB 65), requires purchased mortgage servicing rights to be amortized "in proportion to, and over the period of, estimated net servicing income." In determining whether any writedown of the existing book value of the purchased servicing is necessary due to unanticipated prepayments, the final rule would also require the use of the discounted approach that is mentioned in FASB Emerging Issues Task Force Issue No. 86–38A and described above in section IV(B) of this preamble.

F. Separately Capitalized Mortgage Banking Subsidiary

In an effort to allow well-run and well-capitalized institutions to engage in higher levels of mortgage servicing activity and yet still minimize the risk of loss to the Federal deposit insurance funds, the FDIC proposed to allow institutions to hold purchased servicing intangibles that would not be limited for regulatory capital purposes, provided that they were held by a separately capitalized subsidiary solely engaged in mortgage banking activities. In addition, all investments in and extensions of credit to the subsidiary by the parent institution would need to be deducted in calculating the amount of the parent's regulatory capital. Also, any transactions with the subsidiary would need to be conducted in compliance with sections 23A and 23B of the Federal Reserve Act and appropriate disclosures would need to be made in any contracts entered into by the subsidiary disclosing that the subsidiary is not a bank or savings association, is an organization separate and apart from any bank or savings association, and that its obligations are not backed or guaranteed by any bank or savings association nor insured by the FDIC.

A number of comments were received concerning the need for the subsidiary to be "solely" engaged in mortgage banking activities, to have its transactions with its insured parent comply with the rules for covered transactions set forth in sections 23A and 23B of the Federal Reserve Act, and for investments in such subsidiaries to be deducted from capital in order for an institution to qualify for the separately capitalized subsidiary exception. The FDIC recognizes that a subsidiary might not be exclusively engaged in mortgage banking activities and could be engaged in a variety of other activities; therefore, the FDIC has deleted the proposed requirement that the subsidiary be "solely" engaged in mortgage banking activities. The final rule allows the institution's primary federal regulator the discretion to determine whether the entity qualifies as a mortgage banking subsidiary.

At the same time, the FDIC believes that if a subsidiary is to be truly separate and if high levels of mortgage servicing are permitted to be conducted without excessive reliance on insured deposits, some provision is necessary to control and limit the nature and type of transactions between the insured parent institution and its subsidiary. The FDIC believes the rules for covered transactions with affiliates set forth in sections 23A and 23B of the Federal Reserve Act are an acceptable set of restrictions and limitations to impose on a subsidiary if it is to be considered a separately capitalized mortgage banking subsidiary for purposes of this final rule.

Certain respondents suggested that the investments in these separately capitalized subsidiaries should be allowed up to a certain percentage of capital before any deductions would be necessary for regulatory capital purposes. On the other hand, the comment letter from the Federal Reserve staff opposed the use of a separately capitalized subsidiary exception and supported the consolidation of all mortgage banking subsidiaries in the analysis of capital adequacy. In the final rule, the FDIC has retained the separately capitalized subsidiary exemption, as well as the provision that all investments in and extensions of credit to the subsidiary must be deducted from capital for regulatory capital purposes if the entity is to

qualify for the exemption. Failure to deduct such investments would be inconsistent with the FDIC's existing treatment of investments in securities subsidiaries and would defeat the conceptual premise on which the notion of a separately capitalized subsidiary is based.

In order to provide sound, well-run savings associations with some additional flexibility in establishing a separately capitalized subsidiary, the final rule allows, in certain limited instances, a temporary case-by-case exemption from the tangible capital limitation. In this regard, a savings association that is in the process of establishing a separately capitalized mortgage banking subsidiary or affiliate and that is deemed by its primary federal regulator to be well-run and in a sound condition may received a temporary exemption from the tangible capital limitation set forth in the final rule, provided that the FDIC Director of the Division of Supervision concurs with the granting of the case-by-case exemption. In order to continue to qualify for this temporary case-by-case exemption, the association must remain in compliance with all the terms set forth by its primary federal regulator as conditions for granting the exemption. The expiration date for any case-by-case exemption that is granted shall not extend beyond December 31, 1991.

Regulatory Flexibility Act Statement

The Board of Directors of the FDIC hereby certifies that these amendments to part 325 will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In light of this certification, the Regulatory Flexibility Act requirements (at 5 U.S.C. 603, 604) to prepare initial and final regulatory flexibility analyses do not apply.

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, State nonmember banks, Savings associations.

The Board of Directors of the Federal Deposit Insurance Corporation amends part 325 of title 12 of the Code of Federal Regulations as follows:

1. The authority citation for part 325 is revised to read as follows:

Authority: 12 U.S.C. 1464(t), 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819 (Tenth), 1828(c), 1828(d), 1828(i) 1828(n), 3907, 3909.

2. Section 325.1 is amended by adding the following sentence at the end of the section to read as follows:

§ 325.1 Scope.

* * * This part also prescribes the maximum amount of purchased mortgage servicing rights that insured savings associations may include in calculating their tangible capital requirement.

3. Section 325.2 is amended by adding the following sentence at the end of paragraph (f) to read as follows:

§ 325.2 Definitions.

* * * * *

(f) * * * For purposes of determining regulatory capital under this part, purchased mortgage servicing rights will be recognized only to the extent the rights meet the conditions, limitations and restrictions described in paragraph 325.5(g).

* * * * *

4. In § 325.5, a new paragraph (g) is added to read as follows:

§ 325.5 Miscellaneous.

* * * * *

(g) *Treatment of purchased mortgage servicing rights.* For purposes of determining regulatory capital under this part, purchased mortgage servicing rights will be deducted from assets and from equity capital to the extent that the rights do not meet the conditions, limitations and restrictions described in this section.

(1) *Annual and quarterly market valuations.* An independent market valuation of purchased mortgage servicing rights shall be performed at least annually. The annual independent market valuation shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates. The valuation shall be based on an analysis of the current fair market value of the purchased servicing intangibles, determined by applying an appropriate market discount rate to the net servicing cash flows. This annual independent market valuation may be based on a review and analysis by an independent mortgage servicing valuation expert of the reasonableness of the internal calculations and assumptions used by the institution to determine fair market value. In addition to the annual independent market valuations the institution shall calculate an estimated fair market value for the purchased mortgage servicing rights at least quarterly.

(2) *Quarterly determination of book value.* Purchased mortgage servicing rights shall be carried at a book value that does not exceed the discounted amount of estimated future net servicing income of the rights. Management of the institution shall review the carrying value at least quarterly, maintain a written record of its review, and adjust the book value as necessary. If unanticipated prepayments occur, a writedown of the book value of the purchased mortgage servicing rights should be made to the extent that the discounted amount of future net servicing income is less than the asset's carrying amount. The evaluation of future net servicing income shall be performed on a discounted approach if the institution wishes to allow its purchased mortgage servicing rights to be recognized for regulatory capital purposes under this part.

(3) *Mortgage servicing rights limitation.* For purposes of calculating regulatory capital under this part (but not for financial statement purposes), the balance sheet asset for purchased mortgage servicing rights will be reduced to an amount equal to the *lesser* of:

(i) 90 percent of the fair market value of the purchased mortgage servicing rights, determined in accordance with paragraph (g)(1) of this section; or

(ii) 90 percent of the original purchase price paid for the mortgage servicing rights; or

(iii) 100 percent of the remaining unamortized book value of the servicing rights, determined in accordance with paragraph (g)(2) of this section.

(4) *Core capital limitation.* The maximum allowable amount of a state nonmember bank's purchased mortgage servicing rights will be limited to the *lesser* of:

(i) 50 percent of the amount of core capital that exists before the deduction of any disallowed purchased mortgage servicing rights; or

(ii) The amount of purchased mortgage servicing rights determined in accordance with paragraph (g)(3) of this section.

Core capital for state nonmember banks is defined in appendix A to this part.

(5) *Tangible capital limitation for savings associations.* The maximum allowable amount of purchased mortgage servicing rights for purposes of calculating a savings association's tangible capital under the capital regulation issued by the Office of Thrift Supervision (12 CFR part 567) shall not exceed the *lesser* of:

(i) 100 percent of the amount of tangible capital that exists before the deduction of any disallowed purchased mortgage servicing rights; or

(ii) The amount of purchased mortgage servicing rights determined in accordance with paragraph (g)(3) of this section

This tangible capital limitation is established pursuant to section 5(t)(4)(C) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464(t).

(6) *Grandfathering.* Notwithstanding the core capital and tangible capital limitations described in paragraphs (g)(4) and (g)(5) of this section, any otherwise disallowed purchased mortgage servicing rights that were acquired on or before February 9, 1990, and any otherwise disallowed purchased mortgage servicing rights for which a contract to purchase the servicing rights existed on or before February 9, 1990, may be grandfathered and recognized for regulatory capital purposes under this part to the extent permitted by the institution's primary federal regulator, provided that the book value of these purchased mortgage servicing rights is amortized in accordance with generally accepted accounting principles and in accordance with paragraph (g)(2) of this section. Grandfathered purchased mortgage servicing rights will count toward the core capital and tangible capital limitations described in paragraphs (g)(4) and (g)(5) of this section. To the extent that grandfathered purchased mortgage servicing rights exist, the allowable amount of nongrandfathered purchased mortgage servicing rights will be reduced accordingly.

(7) *Exemption for certain mortgage banking subsidiaries.* Purchased mortgage servicing rights held by subsidiaries that would otherwise be consolidated for regulatory capital purposes will not be subject to the deductions and limitations described in this section provided the subsidiary is a separately capitalized subsidiary that is engaged in mortgage banking activities. For purposes of this part, a mortgage banking subsidiary may be deemed to be a separately capitalized subsidiary provided that:

(i) The parent institution's investments in, and extensions of credit to, the subsidiary are deducted from equity capital when calculating regulatory capital under this part;

(ii) Extensions of credit and other transactions with the subsidiary are conducted in compliance with the rules for covered transactions with affiliates set forth in sections 23A and 23B of the Federal Reserve Act. 12 U.S.C. 371c; and

(iii) Any contracts entered into by the subsidiary include a written disclosure indicating that the subsidiary is not a bank or savings association, the subsidiary is an organization separate and apart from any bank or savings association, and the obligations of the subsidiary are not backed or guaranteed by any bank or savings association nor insured by the FDIC.

This exemption will not apply if the institution's primary federal regulator determines that the mortgage banking subsidiary's transactions with its parent institution are not conducted on an arms-length basis. Whenever this exemption applies, the assets and liabilities of the mortgage banking subsidiary of a state nonmember bank need not be consolidated for purposes of calculating regulatory capital under this part, provided that all investments in, and extensions of credit to, the subsidiary are deducted from assets and equity capital when calculating regulatory capital under this part. The mortgage banking subsidiary of a savings association may qualify as a separately capitalized subsidiary for purposes of this part, even if the assets and liabilities of the subsidiary are required to be consolidated under the capital standards of the association's primary federal regulator, provided that an amount equal to the association's investments in, and extensions of credit to, the subsidiary are deducted from equity capital when calculating the amount of the association's tangible capital.

(8) *Case-by-case exemption.* A savings association that is in the process of establishing a separately capitalized mortgage banking subsidiary or affiliate and that is deemed by its primary federal regulator to be well-run and in a sound condition may receive a temporary exemption from the tangible capital limitation specified in paragraph (g)(5) of this section, provided that the FDIC Director of the Division of Supervision concurs with the granting of the case-by-case exemption. In order to continue to qualify for this temporary case-by-case exemption, the association must remain in compliance with all the terms set forth by its primary federal regulator as conditions for granting the exemption. The expiration date for any case-by-case exemption that is granted shall not extend beyond December 31, 1991.

5. Appendix A to part 325 is amended by adding the following sentence at the end of the last paragraph in section I.A.1.:

Appendix A to Part 325—Statement of Policy on Risk-Based Capital

* * * * *

I. * * *

A. * * *

1 * * * Mortgage servicing rights that do not meet the conditions, limitations and restrictions described in 12 CFR 325.5(g) will not be recognized for risk-based capital purposes.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 11th day of December 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-30240 Filed 12-26-90; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-ANE-38; Amendment 39-6843]

Airworthiness Directives; Pratt & Whitney Canada PW100 Series and JT15D Series Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney Canada (PWC) PW118, PW118A, PW120, PW120A, PW121, and JT15D-5 model engines, which requires a repetitive leak check inspection of the hydromechanical fuel control unit (HMU). A one-time x-ray or disassembly inspection to confirm correct assembly of the HUM is also required. This amendment is prompted by two events of significant fuel leakage from the HMU. This condition, if not corrected, could result in a fire hazard in the engine nacelle.

DATES: Effective January 7, 1991.

Comments for inclusion in the docket file must be received on or before January 28, 1991.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the **Federal Register** as of January 7, 1991.

ADDRESSES: Comments on the proposal may be mailed in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, attn: Rules Docket No. 90-ANE-38, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments may be inspected at the above location between the hours of 8

a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from United Technologies Corporation, Hamilton-Standard Division, Technical Publications Department, One Hamilton Road, Windsor Locks, Connecticut 06096–1010. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE–142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7085.

SUPPLEMENTARY INFORMATION: There have been two revenue service events of significant fuel leakage from the HMU in the area of the electrical connector. The cause of the leakage has been determined to be incorrect assembly of the torque motor transfer tube preformed packing and backup retaining ring assembly. It has also been determined that the misassembly can occur at HMU overhaul, or at new HMU manufacture. Therefore, inclusion of the x-ray or disassembly one-time inspection (required to be completed by June 30, 1991), in this AD, without any further public notice, is substantiated as follows. The population of affected units is large (approximately 2,500), and timely execution and completion of this program requires initiation of the one-time inspection program concurrently with the repetitive leak check inspections. Further, any delay in incorporation of the one-time inspection program may result in a very short compliance interval. In addition, based on inspection findings the compliance schedule may be subject to further modification. For the above reasons, incorporation of the one-time inspection requirement in this AD is justified in order to minimize the duration of the inspection program, prevent a very short compliance interval, and reduce the exposure of revenue service aircraft to a potentially significant engine fire hazard. This condition, if not corrected, could result in external fuel leakage from the HMU, and a fire hazard in the engine nacelle.

The FAA has reviewed and approved Hamilton-Standard Service Bulletin (SB) Nos. JFC118–10–73–14, JFC118–11–73–15, JFC118–12–73–16, JFC118–30–73–15, and JFC118–31–73–14, each dated October 26, 1990, which describe a one-time inspection of the HMU to confirm correct assembly of the preformed packing and backup retaining ring assembly.

Since this condition is likely to exist or develop on other engines of the same type design, this AD requires repetitive visual inspection of the HMU for external fuel leakage. A one-time x-ray or disassembly inspection of the HMU preformed packing and backup retaining ring assembly is also required to determine correct assembly. The repetitive inspection program is not required for HMU's determined to be assembled correctly.

Since this condition could result in a fire hazard to the aircraft, there is a need to minimize the exposure of revenue service aircraft to this unsafe condition. Therefore, safety in air transportation requires adoption of this regulation without prior notice and public comment. In addition, based on the above and the need to inspect the HMU to identify external fuel leakage and incorrect assembly as soon as practicable, a situation exists that requires the immediate adoption of this regulation. Therefore, it is found that notice and public procedure are impracticable, and good cause exists for the adoption of the amendment without public comment, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the FAA, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 90–ANE–38, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received by the deadline date indicated above will be considered by the Administrator, and the AD may be changed in light of the comments received.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Pratt & Whitney Canada: Applies to Pratt & Whitney Canada (PWC) PW118, PW118A, PW120, PW120A, PW121, and JT15D–5 model engines, installed on, but not limited to, DeHavilland of Canada DHC–8 Series 100, Embraer EMB120, Aerospatiale ATR–42, Beech Beechjet, Cessna T47A, and Siai-Marchetti S211 aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent a fire hazard in the engine nacelle, accomplish the following:

(a) For engines equipped with Hamilton-Standard Model JFC118 hydromechanical fuel control units (HMU) identified in Table I of this AD, *excluding* HMU's marked "MS090–001", perform the following:

(1) Perform an HMU leak check inspection in accordance with the applicable Accomplishment Instructions of Appendix I of this AD, within the next 15 hours time in service after the effective date of this AD.

(2) Thereafter, reinspect the HMU for leakage in accordance with the applicable Accomplishment Instructions of Appendix I

at intervals not to exceed 15 hours time in service since last inspection.

(3) Remove from service, prior to further flight, HMU's exhibiting fuel leakage when inspected in accordance with (a)(1) or (a)(2) above.

(4) X-ray or disassemble inspect the HMU for correct assembly in accordance with the Accomplishment Instructions of the applicable Hamilton-Standard (HS) service bulletin (SB) listed in Table I of this AD, at the next engine shop visit or HMU removal, or by June 30, 1991, whichever occurs first.

(5) Remove from service, prior to further flight, HMU's confirmed incorrectly assembled when inspected in accordance with (a)(4) above.

(6) For HMU's determined to be correctly assembled when inspected in accordance with (a)(4) above, the repetitive inspections of (a)(1) or (a)(2) above are no longer required.

TABLE I

HMU model/P/N(s)	HS SB
JFC118-10/786390-3	JFC118-10-73-14, Revision 1 (Oct. 26, 1990).
JFC118-11/786391-3 and 786391-5.	JFC118-11-73-15, Revision 1 (Oct. 26, 1990).
JFC118-12/786392-4 and 786392-6.	JFC118-12-73-16, Revision 1 (Oct. 26, 1990).
JFC118-30/787230-1	JFC118-30-73-15, Revision 1 (Oct. 26, 1990).
JFC118-31/776660-3 and 790155-1.	JFC118-31-73-14, Revision 1 (Oct. 26, 1990).

(b) For the purpose of this AD, shop visit is defined as the induction of an engine into a shop for the conduct of maintenance.

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

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

The X-ray and disassembly inspection shall be done in accordance with the following HS documents:

Document	Page	Revision	Date
HS SB JFC118-10-73-14	All	1	October 26, 1990.
HS SB JFC118-11-73-15	All	1	October 26, 1990.
HS SB JFC118-12-73-16	All	1	October 26, 1990.
HS SB JFC118-30-73-15	All	1	October 26, 1990.
HS SB JFC118-31-73-14	All	1	October 26, 1990.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the United Technologies Corporation, Hamilton-Standard Division, Technical Publications Department, One Hamilton Road, Windsor Locks, Connecticut 06096-1010. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC 20591.

Appendix I

Part A: PW100 Series

A. References

—Models PW118 (BS698)/PW118A (BS718): Maintenance Manual P/N 3034622.

—Models PW120 (BS633/BS716) and PW121 (BS722/BS725): Maintenance Manual P/N 3034642.

—Models PW120A (BS632) and PW121 (BS717): Maintenance Manual P/N 3034632.

B. Accomplishment Instructions

Perform the following HMU leak check inspection.

(1) Perform a fuel system leak test in accordance with the applicable maintenance manual, or visually inspect the HMU for external fuel leaks within 30 minutes of shutdown.

(2) Ensure there is no fuel leakage at the HMU electrical connector area.

(3) If any fuel leak is observed, remove the HMU from service.

(4) Annotate engine log to include this AD inspection.

Note: Information concerning this inspection can be found in Pratt & Whitney Canada (PWC) Service Bulletin (SB) No. 20951.

Part B: JT15D Series

A. References

—Model JT15D-5: Maintenance Manual P/N 3033442

B. Accomplishment Instructions

Perform the following HMU leak check inspection.

(1) Perform a fuel system leak test in accordance with the applicable maintenance manual, or visually inspect the HMU for external fuel leaks within 30 minutes of shutdown.

(2) Ensure there is no fuel leakage at the HMU electrical connector area.

(3) If any fuel leak is observed, remove the HMU from service.

(4) Annotate engine log to include this AD inspection.

Note: Information concerning this inspection can be found in PWC SB No. A-7295.

This amendment becomes effective January 7, 1991.

Issued in Burlington, Massachusetts, on December 7, 1990.

Herschel C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-30122 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 255

[Docket No. 46494; Notice No. 90-31]

RIN 2105-AB47

Computer Reservation System (CRS) Regulations

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is extending the expiration date of its existing rules on computer reservations systems (CRSs) (14 CFR part 255) to November 30, 1991, to enable the Department to complete its rulemaking on whether those rules should be renewed for a longer period and, if so, with what changes.

EFFECTIVE DATE: December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas Ray or Gwyneth Radloff, Office of the General Counsel, 400 7th St., SW., Washington, DC 20590, (202) 366-4731 or 366-9305, respectively.

SUPPLEMENTARY INFORMATION:

Introduction

The Department's rules governing computer reservations systems (CRSs) operated in the United States, 14 CFR part 255, were originally adopted by the Civil Aeronautics Board (the "Board"),

the Department's predecessor in administering the economic regulatory provisions of the Federal Aviation Act, 49 U.S.C. 103 *et seq.*, in 1984. Section 255.10(b) of the rules provides that they will terminate December 31, 1990.

To determine whether we should readopt the rules, and, if so, whether they should be modified, we began a proceeding to consider those matters by issuing an Advance Notice of Proposed Rulemaking requesting comments on them. Advance Notice of Proposed Rulemaking, Computer Reservations Systems, 54 FR 38870 (September 21, 1989). We have received numerous comments and other pleadings in that proceeding, representing the views of the Department of Justice, all of the CRSs and almost all major U.S. airlines, many foreign airlines, the European Community and the European Civil Aviation Conference, the two largest travel agency trade associations, several travel agencies, an independent manufacturer of CRS hardware, and two rental car companies.

Because their comments raised complex economic and policy issues requiring careful consideration, we have not been able to propose and adopt new CRS rules before the expiration date of the current rules. We therefore issued a Notice of Proposed Rulemaking with a proposal to extend the expiration date of the current rules to November 30, 1991. 55 FR 50033 (December 4, 1990). In doing so we noted that almost all parties in the proceeding supported the readoption of our rules (usually with changes to strengthen them) and that the two major vendors (American Airlines and United Air Lines) would not object to the rules' readoption. We also pointed out that a temporary extension of the current rules would preserve the status quo pending the completion of the proceeding to determine which CRS rules, if any, should be adopted for the future. In the ANPRM, moreover, we stated that we had tentatively decided to renew the rules and that some rules could require strengthening. 54 FR 38873. In our notice proposing to expend the rules' expiration date we stated that we still tentatively believed that CRS rules appear necessary.

Comments

We received comments on our proposal to change the rules' termination date from American Airlines, Worldspan L.P., Northwest Airlines and Trans World Airlines, America West Airlines (whose late comments we will accept), the Michigan Department of Transportation, and LTU International Airways. All but American support the proposed extension of the current rules. American states that it does not oppose an extension of the current rules, but it asserts that CRS rules are unnecessary. Worldspan, Northwest, TWA, America West, and LTU assert that new rules are overdue, given the position of the Justice Department and almost all other parties in the rulemaking that stronger rules are essential to correct competitive abuses in the CRS business, and that we should therefore complete the rulemaking well before November 30, 1991.

Need for Extending the Expiration Date

After considering the comments, we have determined to adopt our proposal to amend § 225.10(b) to change the rules' expiration date to November 30, 1991. We obviously will be unable to complete the rulemaking on whether the rules should be readopted, with or without changes, by December 31, 1990, and allowing the current rules to expire would be disruptive, as explained in our Notice of Proposed Rulemaking. None of the comments disagree with our decision to extend the rules. We appreciate the concerns of several commentors that the rulemaking should be completed as soon as possible. American's arguments that no CRS rules are necessary will, of course, be considered by us in that proceeding.

Effective Date

We have determined for good cause to make this amendment effective on December 31, 1990, rather than 30 days after publication as required by the Administrative Procedure Act, 5 U.S.C. 553(d) except for good cause shown. In order to maintain the current rules in effect on a continuing basis, we must make this amendment effective by December 31, 1990. Since the amendment preserves the status quo, it will require no changes in the current operations of the CRS vendors, U.S. and foreign airlines, and travel agencies. As a result, making the amendment effective less than 30 days after publication will impose no burden on anyone.

Regulatory Impact Analysis

Executive Order 12291 requires each executive agency to prepare a regulatory impact analysis for every "major rule". The Order defines a major rule as one likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individuals industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Our notice proposing to change the rules' expiration date to November 30, 1991, pointed out that the Board had done a regulatory impact analysis in its CRS rulemaking. We reasoned that the Board's analysis appears to be valid for our proposal to extend the rules' expiration date, since we would be keeping in force the existing CRS rules, and that we could therefore rely on the regulatory impact analysis prepared by the Board when it adopted the rules. We noted that we would consider comments from any parties on that analysis before making our proposal final.

No one filed comments on the regulatory impact analysis. We will therefore make final our initial regulatory impact statement analysis.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96–354) is intended to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, would have a significant economic impact on a substantial number of small business entities. In its rulemaking the Board conducted a regulatory flexibility analysis on the rules' impact, as noted in our notice proposing to change the rules' expiration date. In that notice we stated that the amendment would not change the existing regulation of small businesses and that the Board's analysis appeared applicable to our proposed amendment. We therefore stated that we would adopt that analysis, subject to any comments filed on the proposal.

No party commented on the regulatory flexibility analysis. We have accordingly determined to make final our initial analysis.

Paperwork Reduction Act

This rule will not impose any new collection-of-information requirements and so is not subject to the Paperwork Reduction Act, Pub. L. 96–511, 44 U.S.C. chapter 35.

Federalism Implications

This rule will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, we have determined that the rule does not have sufficient federalism implications to

warrant preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 255

Air Carriers, Antitrust, Reporting and recordkeeping requirements.

Accordingly, the Department of Transportation is amending its rules on computer reservations systems, 14 CFR part 255, Carrier-owned Computer Reservation Systems, as follows:

PART 255—[AMENDED]

1. The authority citation for part 255 continues to read as follows:

Authority: Secs. 102, 204, 404, 409, 411, 1102; Pub. L. 85–726 as amended, 72 Stat. 740, 743, 760, 769, 797; 92 Stat. 1732; 49 U.S.C. 1302, 1324, 1374, 1381, 1389, 1502.

2. Section 255.10 is revised to read as follows:

§ 255.10 Review and termination.

Unless extended, this rule shall terminate on November 30, 1991.

Issued in Washington, DC on December 21, 1990.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90–30369 Filed 12–21–90; 2:49 pm]

BILLING CODE 4910–62–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6899]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

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

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

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

§ 64.6 List of Eligible Communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Minimum Conversions				
Region I				
Maine: Hartland, town of Somerset County	230361	July 15, 1975, Emerg.; Jan. 1, 1991, Reg.; Jan. 1, 1991, Susp	1-1-91	Jan. 1, 1991.
Region III				
Pennsylvania: Jackson, town of Lycoming County.	422601	Jan. 19, 1989, Emerg.; Jan. 1, 1991, Reg.; Jan. 1, 1991, Susp	1-1-91	Do.
West Virginia: Ritchie County, Unincorporated Areas.	540224	Sept. 1, 1976, Emerg.; Jan. 1, 1991, Reg.; Jan. 1, 1991, Susp	1-1-91	Do.
Regular Conversions				
Region II				
New Jersey:				
Andover, borough of Sussex County	340542	Aug. 27, 1975, Emerg.; Mar. 4, 1983, Reg.; Jan. 2, 1991, Susp	1-2-91	Jan. 2, 1991.
Green, township of Sussex County	340529	Oct. 8, 1982, Emerg.; Oct. 8, 1982, Reg.; Jan. 2, 1991, Susp	1-2-91	Do.
New York: North Castle, town of Westchester County.	360923	June 12, 1975, Emerg.; Dec. 2, 1983, Reg.; Jan. 2, 1991, Susp	1-2-91	Do.
Region III				
West Virginia: Meadow Bridge, town of Fayette County.	540028	Oct. 1, 1975, Emerg.; Jan. 2, 1991, Reg.; Jan. 2, 1991, Susp	1-2-91	Do.
Region VI				
Texas: Young County, Unincorporated Areas	480684	Dec. 21, 1978, Emerg.; Jan. 2, 1991, Reg.; Jan. 2, 1991, Susp	1-2-91	Do.
Region II				
New York: Newport, town of Herkimer County	361111	June 3, 1976, Emerg.; Aug. 5, 1985, Reg.; Jan. 17, 1991 Susp.	1-17-91	Jan. 17, 1991.
Region III				
West Virginia: Elizabeth, town of Wirt County	540212	June 9, 1975, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991 Susp.	1-17-91	Do.
Region IV				
Mississippi:				
Burnsville, city of Tishomingo County	280264	Apr. 17, 1975, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp	1-17-91	Do.
Marshall County, Unincorporated Areas	280274	Aug. 4, 1986, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp	1-17-91	Do.
Region V				
Ohio: Roseville, village of Muskingum County	390646	July 25, 1975, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp	1-17-91	Do.
Wisconsin:				
Amherst, village of Portage County	550338	April 2, 1975, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp	1-17-91	Do.
Westfield, village of Marquette County	550269	June 26, 1975, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp	1-17-91	Do.
Region VI				
Texas: Montague County, Unincorporated Areas.	480939	Aug. 30, 1982, Emerg.; Jan. 17, 1991, Reg.; Jan. 17, 1991, Susp	1-17-91	Do.

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

Issued: December 19, 1990.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-30302 Filed 12-26-90; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-309, FCC 90-364]

Broadcast Service; Network Representation Rule

AGENCY: Federal Communications Commission.

ACTION: Final rule; permanent waivers of the rules.

SUMMARY: This final rule makes permanent the "temporary" waivers of the "network representation rule" granted to Univision, Inc., the Latin International Network Corporation, and the Telemundo Group, Inc. The action is taken to close the proceeding and to extend the waivers that further several of the Commission's goals: encouraging the growth of new networks, fostering foreign language programming, increasing programming diversity, strengthening competition among stations; and fostering a competitive UHF service. In a document published in the Proposed Rule section of this issue, the Commission terminates the review of the "network representation rule," 47 CFR 73.658(i).

EFFECTIVE DATE: December 27, 1990.

FOR FURTHER INFORMATION CONTACT: Judith Herman, Mass Media Bureau, Policy and Rules Division (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order (Report)* in BC Docket No. 78-309, adopted November 2, 1990, and released December 3, 1990.

The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. This proceeding was initiated in 1978 (*See Memorandum Opinion and Order and Notice of Proposed Rule Making* in BC Docket No. 78-309, 43 FR 45895, October 4, 1978) to consider amending or repealing the "network representation rule," § 73.658(i) of the Commission's Rules (47 CFR § 73.658(i)). That rule section prohibits televisions stations, other than those "owned and operated" by a television network, from being represented by their network in the non-network (spot) sales market. The *Report*, while terminating the proceeding without changing the rule, makes permanent the "temporary" waivers of this rule granted to Univision, Inc., the Latin International Network Corporation, and the Telemundo Group, Inc.

2. The proceeding was initiated in response to a request from the Spanish International Network (now known as

Univision) that it be granted a waiver of the rule so that it could continue to act as the representative of its affiliates in national spot advertising sales. At that time, the Commission granted Univision a temporary waiver of the rule pending resolution of this proceeding, and sought comment in the *Memorandum Opinion and Order and Notice of Proposed Rule Making (Notice)* about whether it was appropriate to continue to include emerging networks, such as Univision, within the scope of the network representation rule. In April 1986 the Latin International Network (Latinet) filed a petition for waiver of the network representation rule followed by a petition for waiver in March 1987 by Telemundo Group, Inc. (Telemundo). A *Further Notice of Proposed Rule Making (Further Notice)*, which can be found at 53 FR 18305 (May 23, 1988), was issued in response.

3. The temporary waivers of the network representation rule held by Univision, Telemundo, and Latinet expire with the termination of this proceeding. The *Further Notice*, therefore, sought comment on the proper disposition of these temporary waivers. The growth that both Univision and Telemundo have shown since the temporary waivers were granted, attests to the fact that the waiver has enabled them and their affiliates to grow as providers of foreign-language television programming to the public. Univision and Telemundo both deliver Spanish-Language programming.

4. Based on over a decade of experience in observing the consequences of our initial waiver to Univision and the overall record in this proceeding, it appears clear that had the Commission not waived the network representation rule in 1978, the development of the above referenced new foreign-language programming services would have been hampered, if not stifled completely, an outcome clearly inconsistent with the public interest. Also, the record shows that the waivers of the network representation rule granted to both Univision and Telemundo continue to provide additional benefits in that they further several of the Commission's longstanding goals: Encouraging the growth and development of new networks; fostering foreign-language programming; increasing programming diversity; strengthening competition among stations; and fostering a competitive UHF service. Accordingly, the Commission makes the temporary waivers of § 73.658(i) of the Rules permanent.

Final Regulatory Flexibility Analysis Statement

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will not have a significant impact on a substantial number of small entities because it simply terminates the proceeding and extends the temporary waivers.

6. The Secretary shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

7. Accordingly, *it is ordered*, That the waivers of § 73.658(i) of our Rules, 47 CFR 73.658(i) granted to Univision, Telemundo and Latinet are made permanent.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–30087 Filed 12–26–90; 8:45 am]

BILLING CODE 6712–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1810 and 1852

[NASA FAR Supplement Directive 89–5]

RIN 2700–AB14

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement; Correction

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule; correction.

SUMMARY: NASA is correcting errors in amendments to Parts 1810 and 1852 which reflected miscellaneous changes to the NASA FAR Supplement (NFS) and which appeared in the **Federal Register** on November 14, 1990 (55 FR 47477).

FOR FURTHER INFORMATION CONTACT: David K. Beck, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, telephone: (202) 453–8250.

SUPPLEMENTARY INFORMATION: NASA has published miscellaneous amendments to the NASA FAR Supplement. Amendments to parts 1810 and 1852 are in error which are discussed briefly below and are corrected by this notice.

Dated: December 20, 1990.

Don G. Bush,

Deputy Assistant Administrator for Procurement.

The following corrections are made in the NASA FAR Supplement Directive 89–5, parts 1810 and 1852, published in the **Federal Register** on November 14, 1990 (55 FR 47477).

1810.011–70 [Corrected]

1. On page 47478, second column, in amendatory instruction 4., in the first line, correct the citation "1810.0011–70(d)," to read "1810.011–70(d),".

1852.227 [Corrected]

2. On page 47480, first column, in amendatory instruction 11.d., in the first line, correct the citation "1852.227(a)," to read "1852.227–19(a),".

[FR Doc. 90–30274 Filed 12–26–90; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB42

Endangered and Threatened Wildlife and Plants; Final Rule to List the Golden-cheeked Warbler as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines the golden-cheeked warbler (*Dendroica chrysoparia*), to be an endangered species under the authority of the Endangered Species Act of 1973 (Act), as amended. This small, insectivorous bird nests exclusively in central Texas in mature Ashe juniper-mixed oak woodland or forest. The golden-cheeked warbler is threatened by habitat loss and fragmentation, which result from urban encroachment into the range of the warbler and widespread clearing of juniper as a range management practice. The threat of brown-headed cowbird parasitism increases in magnitude as habitat becomes more fragmented.

EFFECTIVE DATES: December 27, 1990.

ADDRESSES: The complete file for this rule will be available for inspection, by appointment, at the Ecological Services Field Office, U.S. Fish and Wildlife Service, Stadium Centre Building, 711

Stadium Drive East, suite 252, Arlington, Texas 76011.

FOR FURTHER INFORMATION CONTACT: Robert Short, Field Supervisor (see **ADDRESSES** at (817) 885–7830 or FTS 334–7830.

SUPPLEMENTARY INFORMATION:

Background

The golden-cheeked warbler is a member of the family Emberizidae. The species was discovered in Guatemala by Osbert Salvin in 1859, and described in 1860 by Philip Lutley Sclater and Salvin (Pulich 1976).

The golden-cheeked warbler is a small, insectivorous bird. In breeding plumage, the male has yellow cheeks outlined in black, with a black stripe extending through the eye to the side of the nape. Its crown, upper parts, throat, neck, upper breast, and streaking along the flanks are jet black. Wings are black with two distinct white bars, and the tail is blackish. The female is less colorful than the male. Her upper parts are yellowish-olive green, the wings and tail are grayish, and the cheeks are not as bright yellow as the male (Pulich 1976).

This species is the only endemic breeding bird of Texas; its entire nesting range occurs within the State (Wahl *et al.* 1990). It occurs in central Texas from Palo Pinto and Bosque Countries, south through the eastern and south-central portions of the Edwards Plateau (Shaw 1989). Pulich (1976) considered 31 countries in central Texas to be the nesting range of the golden-cheeked warbler. The breeding range of the golden-cheeked warbler coincides closely with the range of *Juniperus ashei* (Ashe juniper). The golden-cheeked warbler depends on Ashe juniper for nesting materials and substrate, and singing perches (Kroll 1980, Pulich 1976, Shaw 1989, Wahl *et al.* 1990). The golden-cheeked warbler uses strips of Ashe juniper bark to construct its nest. The strips of bark are bound together with cobwebs to form a compact little cup, which is then lined with fur and feathers. The nest is commonly located about 4.5 meters (15 feet) from the ground, although it varies from 1.5–10 meters (5–32 feet) (Pulich 1976).

Golden-cheeked warbler nesting habitat consists of Ashe juniper and various species of oak, such as *Quercus durandii breviloba* (scrub oak) and *Quercus buckleyi* = *Q. texana* (Texas oak). Oaks (especially deciduous species) apparently provide essential foraging substrate (Wahl *et al.* 1990). The golden-cheeked warbler feeds on whatever insects are available, including caterpillars, green lacewings, small green cicadas, katydids, walkingsticks, flies, adult moths, and small butterflies. The birds also eat spiders (Pulich 1976).

The golden-cheeked warbler winters in Mexico, Guatemala, Honduras, and Nicaragua. It arrives in Texas on the breeding territory in mid-March. The golden-cheeked warbler returns to the same area year after year (Pulich 1976). The species has a narrow tolerance in habitat requirements. If habitat is destroyed, the birds that are dependent upon it are eliminated from the breeding population (Pulich 1976).

The presence of mature Ashe junipers is a major requirement for habitat of golden-cheeked warblers. Even nests in other tree species contain long strips of Ashe juniper bark (Pulich 1976). Ashe juniper trees begin sloughing bark near the base at about 20 years, and at the crown by 40 years (Kroll 1980). The golden-cheeked warbler is a mature forest dweller because of its dependence on several old-growth attributes of Ashe juniper-oak woodland, including nearly closed canopy, canopy height, and shredding bark of older junipers (Wahl *et al.* 1990).

The golden-cheeked warbler breeding season is mainly in April and May. Usually three or four eggs, rarely five, are laid. The eggs are white or creamy white with varying amounts of brown and less predominant shades of purple. The female incubates the eggs for 12 days. The male plays an active role in feeding and care of the young. Warblers spend much of their time in Ashe junipers during brooding and fledging (Beardmore, Texas A&M University, pers. comm.). The young leave the nest when 8 or 9 days old, but remain nearby in a loose family group while being cared for by both parents (Pulich 1976). Second nesting attempts are made only when the first nest is destroyed or deserted. In one year, 63 percent of the nests observed were deserted because of brown-headed cowbird parasitism (Pulich 1976).

Nest desertion is also caused by habitat destruction, rat snakes, storms, and possibly squirrel predation. Nesting success appears to be low for this species (Pulich 1976).

Pulich (1976) estimated the total adult golden-cheeked warbler population at 15,000–17,000 birds. Wahl *et al.* (1990) reported the median density for all study sites with golden-cheeked warblers to be 15 pairs/100 hectares (247 acres). It was estimated that in urban counties 19,400–55,750 hectares (47,900–137,750 acres) of suitable habitat for golden-cheeked warblers remain. In rural counties, an estimated 12,750–51,000 hectares (31,500–126,000 acres) of suitable golden-cheeked warbler habitat remain. Based on the assumption that all suitable habitat is occupied, the carrying capacity of the available suitable habitat area would support between 4,800–16,000 pairs of golden-cheeked warblers at a density of 15 pairs/100 hectares (247 acres). Probably not all golden-cheeked warblers in the population are paired, however, and not all habitat is occupied (Wahl *et al.* 1990).

In the December 30, 1982, Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454), the golden-cheeked warbler (*Dendroica chrysoparia*) was included as a Category 2 species. Category 2 comprises taxa for which information now in possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support a proposed rule. In both the September 18, 1985, Review of Vertebrate Wildlife; Notice of Review (50 FR 37958), and the January 6, 1989, Animal Notice of Review (54 FR 554) the golden-cheeked warbler was retained in Category 2.

A petition was received from Timothy Jones by the Service on February 2, 1990, requesting that the Service prepare an emergency listing for the golden-cheeked warbler because the normal listing procedure could be inadequate to protect the bird and its habitat from imminent destruction from clearing and development. The Service treated this document as a petition to list the golden-cheeked warbler under the Endangered Species Act. The Service conducted an extensive review of the status of the golden-cheeked warbler and determined that an emergency posing a significant risk to the well-being of the golden-cheeked warbler existed. An emergency rule listing the species as endangered was published concurrent with a proposed rule on May 4, 1990 (55 FR 18844, 55 FR 18846). The emergency rule expires on December 31, 1990.

Because the emergency rule expires on December 31, 1990, it is necessary that this final rule be effective upon publication to provide for continued protection under the Act. A lapse in protection for the golden-cheeked warbler could result in irrevocable harm to the species if urban construction projects and other activities resume resulting in take of warblers and destruction of habitat. If protection were to lapse, serious law enforcement problems would arise because the Government would have to prove that allegedly unlawful takings did not occur during the period of the lapse.

Accordingly, the Service finds that good cause exists for this rule to take effect immediately upon publication.

Summary of Comments and Recommendations

In the May 4, 1990, proposed rule and associated notifications all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The comment period originally closed on July 3, 1990, but was extended to July 9, 1990 (55 FR 23109), to allow individuals to submit comments after the public hearing. Appropriate State agencies, foreign governments, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the *Kerrville Daily Times* on June 5, 1990; the *Junction Eagle* on June 7, 1990; the *Dallas Times Herald* on June 8, 1990; the *Austin-American Statesman* on June 12, 1990; and the *San Antonio Express-News* on June 13, 1990. Comment letters were received from 171 entities and are discussed below.

Because the Service anticipated receiving at least one request for a public hearing, a decision was made to schedule one for June 27, 1990, in Austin, Texas. Interested parties were contacted and notified of the hearing, and notices of the hearing were published in the **Federal Register** on June 6, 1990 (55 FR 23109); the *Junction Eagle* on June 14, 1990; the *Austin-American Statesman* on June 19, 1990; the *Kerrville Daily Times* on June 20, 1990; the *Fort Worth Star-Telegram on June 20, 1990; the Waco Tribune Herald* on June 20, 1990; the *Dallas Times Herald* on June 20, 1990; and the *San Antonio Express-News* on June 21, 1990.

A total of about 200 people attended the hearing. A transcript of this hearing is available for inspection (see **ADDRESSES**). Comments received in the hearing are also summarized below.

A total of 171 comments were received: 82 supported the proposed listing; 12 opposed the proposed listing; and 77 either commented on information in the proposed rule but expressed neither support nor opposition, provided additional information, or were non-substantive or irrelevant to the proposed listing.

Additional oral or written statements were received from 62 parties at the hearing: 40 supported the proposed listing; 3 opposed the proposed listing; and 19 neither supported nor opposed the proposed listing, or were non-substantive or irrelevant to the proposed listing.

Comments were received from 3 foreign countries, 1 Federal and 2 State agencies, and over 200 private organizations, companies, and individuals. Some individuals or organizations submitted more than one comment, but they were only counted as one. Written comments and oral statements presented at the public hearing and received during the comment period are addressed in the following summary. Comments of a similar nature are grouped into a number of general issues. These issues, and the Service's response to each, are discussed below.

Issue 1: Some commenters stated that there is insufficient data to support the conclusions in the proposed rule. A commenter asked how a listing of the warbler based on empirical reports could comply with the Act.

Response: The status survey performed by Wahl *et al.* (1990) was the result of a two-year study on the golden-cheeked warbler. Studies done for the Balcones Canyonlands Habitat Conservation Plan include information pertinent to the status of the golden-cheeked warbler. A book by Pulich (1976) was the result of more than 10 years of field research on the golden-cheeked warbler. In addition, the Service has discussed the status of this species with several biologists in central Texas who performed extensive research on the species as part of their graduate studies. Although there are still biological questions on the golden-cheeked warbler, including behavior and minimum habitat patch size requirements, the Service believes that the available scientific information strongly supports the need to designate the golden-cheeked warbler as an endangered species. The data that led to that conclusion are presented and discussed in the "Summary of Factors Affecting the Species" section of this rule, particularly under Factor A (loss of habitat) and Factor E (parasitism by brown-headed cowbirds).

Data on the status of the golden-cheeked warbler were gathered in accordance with scientific principles. Widely accepted techniques were used to census birds and analyze vegetation. Newly available community mapping techniques to interpret satellite maps were used to determine a more recent population estimate for the warbler.

Issue 2: Some commenters questioned the validity of findings presented in the status report and questioned the use of satellite mapping that was at least ten years old.

Response: Service biologists have reviewed the status report and accepted it as valid and relevant scientific information. The Service supports the findings in the status report, and believes that if more recent satellite maps had been used, habitat loss would have been even greater than reported.

Issue 3: Some commenters raised questions regarding the sufficiency or accuracy of the available data, including the variation in the population estimate calculated in the status report.

Response: The Service concludes, as detailed in the "Summary of Factors" section, that there is overwhelming evidence that the status of the golden-cheeked warbler far exceeds the standards required for it to receive protection under the Act. In addition, population size per se is not among the factors upon which listing determinations are based.

Issue 4: A commenter stated that there was too much emphasis on ecological factors and not enough on the species itself.

Response: The purpose of the Act is to "provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved * * *." Consequently, it is appropriate that any determination to list a species emphasize ecological factors as well as the detailed species information presented in the Background section.

Issue 5: A commenter asked how golden-cheeked warbler habitat can be differentiated using satellite mapping.

Response: Satellite images (remote sensing) were used in conjunction with a Geographic Information System (GIS) to identify potential habitat of the golden-cheeked warbler. The imagery used for the warbler was collected by Landsat satellites in 1979 and 1981. These satellites collect data on reflected radiances from the earth's surface. Different vegetation types reflect radiation differently. These differences were used to distinguish habitat types. Data from sites known to be quality warbler habitat were examined to determine which particular reflectance data corresponded to warbler habitat. This information was used to identify all areas with similar reflectance. Field work was then done to sample particular sites on the ground. The purpose of this field work was to verify whether the classification of the satellite data had resulted in the identification of vegetational communities that were of the correct vegetational composition for golden-cheeked warblers. In the case of the golden-cheeked warbler this method was found to be very accurate in identifying potential warbler habitat.

Issue 6: Some commenters believe that the Service has singled out Travis

County for protective recovery measures, and has ignored other areas. The commenters stated that protecting Travis County will not protect birds in the rest of Texas and Central America.

Response: The Service agrees that range-wide recovery efforts will be necessary to protect the golden-cheeked warbler. However, Travis County has about 40 percent more golden-cheeked warbler habitat than any other county, and it is some of the best habitat because it is the least fragmented. Many acres of golden-cheeked warbler habitat have been cleared for development in the Austin area. Therefore, the Service has identified Travis County as an important area for golden-cheeked warbler recovery because of excellent remaining habitat and imminent threats.

Very little is known about the status of the golden-cheeked warbler in its winter range in Mexico and Central America. The Service has no enforcement authority on the bird's wintering grounds. If the warbler is listed as endangered, U.S. import or export would be allowed only under permit for scientific purposes, or to enhance propagation or survival of the species. Study of the golden-cheeked warbler on its wintering grounds to determine winter habitat, range, and threats has been identified by the Service as a recovery need.

Issue 7: Several commenters believed there was insufficient notice of the public hearing.

Response: The Service mailed over 700 letters to individuals announcing the public hearing. Letters were mailed to the County Manager in thirty-three counties, including every county within the warbler's range. Newspaper notices were published in Fort Worth, Austin, Waco, Kerrville, Junction, Dallas, and San Antonio. News releases were transmitted to both the UPI and AP wire services. A number of local papers and television news shows ran stories on the proposed listing of the golden-cheeked warbler, including details on the public hearing. The Service has fully complied with the procedural requirements of notification regulations.

Issue 8: Several commenters suggested that further studies and surveys should be conducted and evaluated before a final decision is made on whether or not to list the golden-cheeked warbler as endangered. One commenter suggested that the emergency rule be extended.

Response: Section 4 of the Act requires that listing determinations be made within one year of the proposal. The Service is required to make listing decisions solely on the basis of the best scientific and commercial data available. The Service believes that available information fully supports this listing.

Issue 9: Several commenters mentioned the need to designate critical habitat for the golden-cheeked warbler.

Response: Critical habitat for this species remains undeterminable at this time. There is currently insufficient information on warbler habitat requirements to support delineation of critical habitat boundaries throughout summer range. Although some areas of warbler habitat have been identified by satellite mapping, all the specific elements of the habitat that are critical to the survival of the golden-cheeked warbler are not known. For example, information is lacking on habitat configuration, fragmentation, corridors, and minimum patch size. Some areas that appear to be suitable habitat from satellite mapping may not be usable by warblers. Biological studies, including one funded by the Service, are being conducted to address this issue. The Service has two years from the date of the original proposed rule (May 4, 1990) to determine what is critical habitat for this species and to designate critical habitat, unless it determines the designation is not prudent.

Issue 10: Some landowners stated that the listing would result in loss of their ability to develop their land and that this should be considered confiscation of privately-owned property without just compensation in violation of the Fifth Amendment.

Response: Listing of a species as endangered or threatened does not result in unconstitutional taking of property by itself because opportunities to obtain exceptions from the prohibitions of the Act are available. The Service is limited by the Act to considering only the best scientific and commercial data available in its deliberations, and cannot take into account economic concerns or non-biological factors during the listing process.

Issue 11: Many of the neutral or opposing comments claimed that listing the golden-cheeked warbler would have a negative effect on cedar clearing for brush control in central Texas.

Response: The section 4 listing procedure requires the Service to analyze biological factors to determine the scientific appropriations of classifying wildlife or plant species as endangered or threatened. Once that procedure is accomplished, other procedures exist, either through section 7 or section 10 of the Act, to analyze impacts posed by particular activities on endangered or threatened species. The Service is under a statutory obligation to follow through with the listing process based on the best available scientific and commercial information regarding the status of this species as endangered or threatened.

Further, while some juniper clearing may be a violation of the Act, this does not apply to all juniper clearing. Large stands of 100 percent juniper are not suitable habitat for this bird, nor are old fields with only scattered young junipers. In areas that are currently in an early successional stage because of continuous brush clearing or cedar control practices in the area, the habitat is probably not suitable for golden-cheeked warblers, and continuation of such range management practices in these areas is not likely to impact the golden-cheeked warbler. Suitable golden-cheeked warbler habitat includes a mixture of Ashe-juniper trees at least 20 to 40 years old and various species of oak, and a nearly closed canopy. However, in cases where suitability of the habitat for golden-cheeked warblers is questionable, a determination should be made by a trained biologist. The Service is starting to work with such agencies as Texas Parks and Wildlife Department, Soil Conservation Service, and local extension agents to address this issue.

Issue 12: A commenter asked if it would be appropriate for the Service to prepare an Environmental Impact Statement on this action.

Response: As a matter of law, an Environmental Impact Statement is not required for listings under the Act (see section on National Environmental Policy Act at end of rule). Listing decisions are based solely upon biological grounds and not upon consideration of economic or socioeconomic factors.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the golden-cheeked warbler should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the golden-cheeked warbler (*Dendroica chrysoparia*) are as follows:

A. *The present or threatened destruction, modification, or curtailment*

of its habitat or range. A juniper or "cedar" eradication program (including Ashe juniper) was implemented in Texas in 1948, and from the 1950's to the 1970's, about 50 percent of the juniper acreage was cleared for pasture improvement and urbanization. The central and western range of the warbler has been decimated by clearing of mature Ashe junipers. At one time, juniper was used for aromatic oils, fuel, and fence posts, but more recently it is usually burned on the cleared site. Several counties that had been golden-cheeked warbler habitat, including portions of Gillespie County, all of Mason County, and others, no longer contained suitable habitat by the 1970's (Pulich 1976).

Widespread clearing of juniper as a range management practice and urban encroachment continue to threaten the golden-cheeked warbler and its habitat. Loss of woody cover through clearing reduces the total habitat acreage available to the golden-cheeked warbler and causes fragmentation of larger patches into smaller ones (Wahl *et al.* 1990). Larger areas of continuous cover are often subdivided and fragmented, especially near expanding population centers such as Austin, San Antonio, and the Austin-San Antonio corridor. Because of the growth and development in this corridor, the greatest rate of golden-cheeked warbler habitat loss has occurred in the southern and eastern portions of the Edwards Plateau (Wahl *et al.* 1990).

Junipers often are removed from private and public lands for enhancement of game populations, range improvement, and enhancement of viewsheds. Removal of junipers from old-growth, Ashe juniper-mixed oak woodlands has two negative effects on the quality of warbler habitat: (1) It removes sources of required nesting material, and (2) it reduces total canopy cover, often to the extent that the stand will no longer support warblers. Clearing junipers to benefit game species such as deer and turkey that occupy mid-successional habitats may adversely affect the golden-cheeked warbler, because it eliminates late successional communities needed by the golden-cheeked warbler and other mature growth species.

Wahl *et al.* (1990) estimated the area of potentially suitable habitat remaining for the golden-cheeked warbler across its entire breeding range. The areas sampled by Wahl *et al.* (1990) experienced loss of 15–45 percent of warbler habitat over about 10 years. The rate of habitat loss is greater in areas subject to urban growth and real estate development, particularly in Travis County. Western Travis County experienced a 40 percent loss in warbler habitat over a 10-year period (4 percent loss/year) and only 16 percent of the county was covered by warbler habitat at the start of the 10-year period (Shaw 1989, Wahl *et al.* 1990). The urban corridor between Austin and San Antonio experienced a 4.4 percent annual loss of golden-cheeked warbler habitat over a 10-year period. Most breeding golden-cheeked warblers inhabit the rapidly changing urban counties on the eastern Edwards Plateau. In the northern portion of the golden-cheeked warbler's range, there was a 15 percent loss of habitat over an 8-year interval. In rural areas, the rate of habitat loss has been steady at about 2–3 percent/year for the last 20 years (Wahl *et al.* 1990). At present rates, the estimated maximum carrying capacity of the habitat will be 2,266–7,527 pairs of golden-cheeked warblers by the year 2000, a reduction in population size of more than 50 percent. Any increase in rates of habitat loss from human effects or other causes will reduce the population further (Wahl *et al.* 1990).

Consistent population growth in the Edwards Plateau region of Texas is a major threat to the golden-cheeked warbler. Loss of warbler habitat caused by human land uses generally results from increasing population pressures (Bunch, on behalf of the Travis Audubon Society and Austin Sierra Club, *in litt.*). An estimated 67 percent of the breeding warblers inhabit rapidly changing urban counties on the eastern Edward's Plateau, including Bexar, Comal, Hays, Travis, and Williamson (Wahl *et al.* 1990; Bunch, *in litt.*). These counties contain large cities such as Austin and San Antonio, and smaller cities such as San Marcos and New Braunfels, all of which are experiencing significant population growth. Estimates of population growth from 1980 to 2000 in the eastern counties of the warbler's range are as follows: Bexar County—988,800 to 1,360,669; Comal County—36,446 to 76,776; Hays County—40,594 to 74,780; Travis County—419,573 to 712,712; Williamson County—76,521 to 251,249 (Texas A&M University 1988). From 1980 to 1988, Bexar County's population grew by 20.3 percent. During the same time, the U.S. population grew by 8.5 percent (Greater San Antonio Chamber of Commerce 1989). In Hays County, the population increased 47 percent from 1970 to 1980, and 66 percent from 1980 to 1989 (Hays County Water Development Board 1989).

Population growth and resulting loss and fragmentation of warbler habitat in these counties are major threats to the largest contiguous areas of preferred warbler habitat. Population projections show that human population growth will likely continue and that the growth is largely independent of the economic boom of the late 1970's and early 1980's. Factors that contribute to greater than expected population growth in these counties include the scenic beauty of the Balcones Escarpment, the continued "sunbelt" development despite an economic recession, and proximity to (and immigration from) Mexico.

Highway construction has destroyed warbler habitat in Texas, and planned future construction would destroy and fragment additional warbler habitat. From 1989 to 2009, the number of lane miles in the State is projected to increase from 183,495 to 241,363, and the number of vehicles registered is projected to increase from 13,970,000 to 17,183,100. Over the next twenty years, the Texas State Department of Highways and Transportation (1989) plans to spend over sixty billion dollars on highway construction. Several commenters provided information on specific proposed highway projects that, if constructed, would destroy warbler habitat.

Numerous proposed reservoirs and water delivery systems will destroy or fragment thousands of acres of warbler habitat if constructed as planned. Of 44 reservoirs planned in Texas and analyzed by Frye and Curtis (1990), 17 will have a potential impact on warbler habitat. One of the proposed reservoirs would destroy over 1200 hectares (3000 acres) of oak-juniper woods (Frye and Curtis 1990).

Certain proposed private developments would also destroy and fragment warbler habitat. Interstate 35 connects San Antonio, New Braunfels, San Marcos, and Austin, and parallels the eastern edge of the warbler's range. It has been designated as the Greater San Antonio-Austin Corridor by the local business community, and intense development is planned there. Commenters provided descriptions of private developments that threaten several thousand acres of remaining warbler habitat. For example, the Woodland Hills Development of Cielo Vista properties surrounds Friedrich Wilderness Park near San Antonio. There are plans for 520 hectares (1,300 acres) of dense housing and suburban development, including single family homes, garden homes, apartments, offices, hotels, and other commercial enterprises, in the midst of excellent warbler habitat (Schnapf, Bexar Audubon Society, in transcript).

The Travis Audubon Society reported that over the last 10 years, they have observed over 60 development projects on a total of over 8900 hectares (22,000 acres) in western Travis County that were submitted to the City of Austin for approval. In the last year, they observed additional development projects that were submitted involving 2150 hectares (5,300 acres) with significant amounts of warbler habitat (Hale, Travis Audubon Society, in transcript). They also stated that as of July 1990, there were at least 72 known development projects in western Travis County that had been brought to the City of Austin for approval. Of the project areas known to contain warbler habitat, a total of 3700 hectares (9,100 acres) out of 12,000 hectares (27,500 acres) (33 percent) was estimated to be warbler habitat (Hale, *in litt.*).

At Dead Man's Creek near Austin, there are eight warbler territories. The area has been purchased by a group that plans to develop 76 hectares (190 acres) with 38 lots and a golf course. The area around the mouth of the creek was cleared a year ago for development (Hale, in transcript). The Wild Basin Wilderness Preserve west of Austin once had a viable population of warblers. The Preserve is now surrounded by development, and the warbler population has been virtually lost (Barth, University of Texas at Austin, *in litt.*).

Several local chapters of the National Audubon Society mentioned during the public hearing and in comment letters that warblers had become much more difficult to find in areas with increasing development, and that population declines were evident.

The warbler's winter habitat in pine-oak forest highlands of southern Mexico, Guatemala, Honduras, and Nicaragua is experiencing similar rates of loss and degradation. From 1970 to 1980, 11 percent, 17 percent, and 30 percent of the remaining forest was lost in Guatemala, Honduras, and Nicaragua, respectively. Current annual loss of what forest was left in 1983 is about 2.3 percent in Guatemala, 3.6 percent in Honduras, and 3.7 percent in Nicaragua. Human populations of Guatemala and Honduras are expected to double by 2008, and in Nicaragua by 2006. If current trends of forest loss continue, most of the highland forests of Mexico and Central America will be gone by 2008 (Lyons, in transcript). The countries of Guatemala and Honduras mentioned deforestation as a major threat to the warbler in their country. No golden-checked warblers have been seen in Belize since 1986.

B. *Over-utilization for commercial, recreational, scientific, or educational purposes.* None known at this time.

C. *Disease or predation.* Several species have been named as nest predators for golden-cheeked warblers, including scrub jays, blue jays, crows, grackles, feral cats and dogs, rat snakes, raccoons, opossums, and squirrels (Barth, *in litt.*, Pease and Gingerich 1989, Pulich 1976). The difficulty in observing golden-cheeked warbler nests makes it difficult to assess the extent of nest predation (Wahl *et al.* 1990). However, Pease and Gingerich (1989) discuss increased nest predation rates in edge habitats and state that feral cats and dogs, fire ants, and scrub jays are likely to be more abundant in urban than rural habitats.

Fire ants could become a threat to young golden-cheeked warblers. Fire ants have increased at an Audubon Sanctuary in Travis County (Meyers, Travis Audubon Wildlife Sanctuary, in transcript). Pulich (*in litt.*) has observed an extremely high number of fire ant mounds in golden-cheeked warbler habitat in Travis County. He also has observed fully feathered young Eastern bluebirds reduced to feathers and bones by fire ants, and suggested that it could happen to warblers as well.

D. *The inadequacy of existing regulatory mechanisms.* The golden-cheeked warbler is subject to the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*). Under this Act, a Federal permit is required to take, capture, band, or otherwise handle the nest, eggs, or individuals of migratory bird species.

The Texas Parks and Wildlife Department lists the golden-cheeked warbler as a threatened species. Departmental regulations make it illegal to shoot or physically harm, possess, sell, or transport golden-cheeked warblers without a permit. However, there is not provision for protection of habitat in these regulations. The City of Austin has limited power to protect warbler habitat. Listing this species under the Act would provide additional protection, especially for habitat, and encourage active management through the "Available Conservation Measures" discussed below.

E. *Other natural or manmade factors affecting its continued existence.* Habitat destruction that causes habitat fragmentation is an immediate threat to the golden-cheeked warbler. Habitat fragmentation increases the degree of isolation between patches of suitable habitat and breaks available habitat into smaller pieces (Pease and Gingerich 1989). Habitat quality is affected by habitat patch size, distance between patches, configuration of patches (ratio of edge to area), corridor availability, and adjacent land use (Shaw 1989). Fragmentation in urban counties has limited the number of what may be suitable size habitat patches to between 16–46 percent of the total vegetation structurally suitable for warbler use, and in rural areas the values range from 11–44 percent (Wahl *et al.* 1990). In Travis County, less than 47 percent of the total golden-cheeked warbler habitat is in patches of 50 hectares (124 acres) or more (Wahl *et al.* 1990). Whether this represents what is minimum habitat patch size is uncertain.

An increased ratio of edge/area in small patches of suitable habitat has an impact on breeding bird species because of increased levels of nest predation, brood parasitism, and interspecific competition in edge habitats (Pease and Gingerich 1989).

Brown-headed cowbirds are abundant throughout the golden-cheeked warbler's breeding range, and threaten other species often associated with warblers. Cowbirds have experienced an enormous range extension and population increase as a result of land clearing for agriculture and livestock raising. Habitat patch size and proximity to high cowbird densities (e.g., near livestock, corrals, urban areas, fields) are the primary determinants of degree of threat to the warblers from cowbirds (Wahl *et al.* 1990). The effects of cowbird parasitism increase with increasing edge or habitat fragmentation. As an interior forest bird, the warbler has been increasingly exposed to cowbird parasitism because of habitat fragmentation. Golden-cheeked warblers occasionally are able to produce at least one fledgling from a parasitized nest. However, as the golden-cheeked warbler population continues to decline and habitat fragmentation increases, the relative threat of cowbird parasitism is likely to increase (Wahl *et al.* 1990).

The Fort Worth Audubon Society observed a decline in the nesting population of warblers at Dinosaur Valley State Park in Somervell County. From 1984 to 1990, the number of warblers recorded during a bird checklist project went from a high of 12 in 1985 to a low of 3 in 1988 and 4 in 1990. Because the nesting habitat was intact, they suggested cowbird parasitism as the cause of the decline (Haynie and Risdon, Fort Worth Audubon Society, *in litt.*).

Tazik (Department of the Army, *in litt.*) reported that Fort Hood in Killeen, Texas, has substantial warbler habitat, and also has a substantial number of

cowbirds during the breeding season. Studies on black-capped vireo nests found parasitism rates of over 90 percent. Tazik (*in litt.*) suggested that warbler nests might experience similarly high rates of parasitism, and that cowbird control efforts in use on the Fort will be of limited value to the warbler.

In the mature Ashe juniper-mixed oak forests of the Balcones Canyonland subregion of the Edwards Plateau, deciduous species generally are not well represented within the younger age classes. In most of these areas, long-term successional changes are leading toward evergreen woodlands dominated by Ashe juniper. These areas are not suitable for golden-cheeked warblers because they lack deciduous oaks for foraging. Lack of reproduction of deciduous trees may be caused by browsing by unnaturally high populations of white-tailed deer, introduced feral ungulates, including feral and domestic goats, or by an oak wilt fungus (*Ceratocystis fagacearum*) that kills the trees (Wahl *et al.* 1990). The U.S. Forest Service has conducted a cooperative oak wilt suppression project for the last two years, which has included the following central Texas counties. Bandera, Bexar, Erath, Gillespie, Hays, Hood, Kendall, Kerr, Tarrant, and Travis (Alcock, U.S. Forest Service, *in litt.*). Suppression methods for oak wilt are aimed at 1) eliminating local spread of the fungus to adjacent healthy trees in individual infection centers, and 2) reducing opportunities for long-distance spread of the fungus by insect vectors (Miles, Texas Forest Service, *in litt.*). The project will run for at least another two years.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the golden-cheeked warbler as endangered. The species has experienced severe habitat declines throughout its range. Because of its narrow habitat requirements, and its habit of returning to the same area every year, habitat destruction leads to elimination of populations. Urban development is accelerating in the most important part of the golden-cheeked warbler's range. This species is vulnerable to increased threats of nest parasitism and predation as habitat becomes more fragmented. Threatened status would not accurately reflect the population decline and imminent threats to this species. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act requires, to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently determinable for this species. The Service's regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analyses of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of the area as critical habitat. Much of the golden-cheeked warbler's habitat has been fragmented by land clearing activities. Some of the remaining habitat patches may be too small or isolated to support viable subpopulations of the species. The minimum patch size requirements of the golden-cheeked warbler are not known at this time. The Service is presently funding a study to determine minimum patch size requirements for this species. The Service must designate critical habitat within two years of the publication date of the original proposed rule (May 4, 1990), unless it determines designation is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Actions authorized, funded, or carried out by the Federal Highway Administration that may affect the golden-cheeked warbler, such as clearing of golden-cheeked warbler habitat, and activities on military installations that contain golden-cheeked warbler habitat are subject to section 7 consultation. Programs sponsored by the Soil Conservation Service that encourage landowners to clear warbler habitat are also subject to section 7 consultation.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt any of these), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

National Environmental Policy Act

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

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Author

The primary author of this final rule is Sonja Jahrsdoerfer, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Birds," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
*	*	*	*	*	*	*	
Warbler, golden-cheeked	*Dendroica chrysoparia*	Entire	U.S.A. (TX), Mexico, Guatemala, Honduras, Nicaragua, Belize.	E	387E, 411	NA	NA
*	*	*	*	*	*	*	

Dated: December 19, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90–30257 Filed 12–26–90; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 901231–0331]

Taking and Importing of Marine Mammals

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

ACTION: Extension of findings expiration and Interim final rule with request for comments.

SUMMARY: The Assistant Administrator for Fisheries, National Marine Service (NMFS), issues this interim final rule that amends the schedule for completing findings affecting the importation of yellowfin tuna into the United States. The current findings, due to expire on December 31, 1990, are extended to May 31, 1991, to coincide with the new finding date.

DATES: *Effective Date*: This rule is effective December 20, 1990. Comments are invited and must be received on or before February 1, 1991.

ADDRESSES: Comments may be mailed to, and copies of the Environmental Assessment are available from E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Regional Director, Southwest Region, National Marine Fisheries Service, (213) 514–6196.

SUPPLEMENTARY INFORMATION: On March 30, 1990, NMFS promulgated a final rule (55 FR 11921) to implement portions of the Marine Mammal Protection Act (MMPA) amendments of 1988. This rule governs the importation of yellowfin tuna caught by purse seining in the eastern tropical Pacific Ocean (ETP).

The 1988 amendments governing the importation of yellowfin tuna and tuna products require that harvesting nations must meet a two-part test to determine that their marine mammal programs are comparable to that of the United States before their tuna products are allowed to enter the United States. A nation must provide documentary evidence that it has a regulatory program for taking marine mammals in the ETP yellowfin tuna fishery that is comparable to the program of the United States and that the average rate of incidental mortality of marine mammals in the ETP yellowfin tuna fishery is comparable to the rate for the U.S. fleet specified in the 1988 amendments. By the end of 1990 and for subsequent years, a harvesting nation's fleet must have an average dolphin mortality rate which does not exceed 1.25 times the

U.S. fleet's rate during the same period. Also, for 1989 and subsequent years, eastern spinner and coastal spotted dolphin mortalities must not exceed 15 and 2 percent, respectively, of a foreign harvesting nation's annual dolphin mortality. Harvesting nations that fail to meet these requirements receive a negative finding, which results in a ban on the nation's yellowfin tuna and tuna products from entering the United States, and a ban on the entry of any yellowfin tuna and tuna products from any intermediary nation that trades with the embargoed nation and the United States if the intermediary nation also fails to ban entry of the tuna from the embargoed harvesting nation within specified time limits.

The existing import rule requires harvesting nations requesting a finding to submit specified documentary evidence on their regulatory programs and dolphin mortality rates in annual reports for the previous calendar year by July 31 of the subsequent year. On August 28, 1990, the U.S. District Court for the Northern District of California found that NMFS' data submission date of July 31 was not consistent with the intent of the MMPA. Although the Court found that computations for the average dolphin mortality rate could be made using periods of less than 1 year, the rule uses a calendar year for both the mortality rate and percent species mortality to avoid the necessity of requiring two findings a year on different time schedules. A calendar year is used to continue the integrity of the historical data base. The use of partial year data was rejected to void criticism and concern about the impact of the unused portion of the data. The schedule for harvesting nations to submit annual reports is, therefore, being changed from July 31 of the subsequent calendar year to March 15 of the subsequent calendar year. NMFS will thence complete a proposed finding within 30 days, by April 15 of each year. The proposed finding will be published in the **Federal Register** to allow members of the public opportunity for comment. A final finding will be prepared by NMFS by May 31, 15 days after the close of the 30 day comment period. The current findings, due to expire on December 31, 1990, are extended to May 31, 1991, to coincide with the new finding date, and subsequent findings will be effective through May 31.

The Inter-American Tropical Tuna Commission (IATTC) administers the international tuna-dolphin observer program. IATTC responsibility also includes editing, verification, and compilation of the observer data for submission to participating harvesting nations for their use in monitoring fleet performance and preparation of annual reports for submission to the United States. The IATTC has reorganized its observer data processing task to accommodate the compressed schedule. It will utilize data from both permanent and provisional data bases in order to provide the best available data in the shortest possible time. IATTC staff has informed us that its reorganized procedures will allow it to provide the requisite data to the nations by approximately February 15, and the nations will require approximately 30 days to incorporate this data in their annual reports and formally submit it to the United States Government. The National Marine Fisheries Service will then complete a proposed finding within 30 days, by April 15 of each year.

In order to implement the earlier findings schedule, a provision has been made in this interim rule to continue the submission of certain data required in the current rule in a supplemental report from the harvesting nations by July 31. These data are not necessary to complete the findings for individual nations, but are used to assess the overall impacts of the tuna-dolphin fishery in the ETP. The information to be submitted in the supplementary report includes the total number of marine mammals observed killed and observed seriously injured in each fishing area, by species, by purse seine sets on common dolphin and all other marine mammals. The total number of eastern spinner and coastal spotted dolphin observed killed or seriously injured will, however, be included in the report due March 15.

Classification

This rule is being promulgated as an interim final rule without opportunity for prior public comment and without a delayed effectiveness period because it involves a foreign affairs function of the United States. The timing of an announcement of a proposed change in reporting date requirements or of imposing embargoes against nations with findings that are due to expire on December 31, 1990, is closely linked with the Government's overall political agenda concerning relations with these other nations. For example, an international meeting has been scheduled for the week of January 14, 1991, in La Jolla, California, to which all nations bordering the ETP and all IATTC member nations have been invited to discuss a multi-lateral dolphin conservation program. If NOAA provided an opportunity for prior public comment, there clearly would be an adverse impact on our relations with those nations with findings that are due to expire on December 31, 1990, and the Government's power to conduct foreign policy would clearly be hampered. Public comment is solicited while the rule is in effect and comments received will be considered in preparing the final rule.

The Assistant Administrator has determined that this rule will not have a significant impact on the human environment. This determination is based on the impact analysis provided in the Environmental Assessment (EA) prepared for the interim final yellowfin tuna import rule, which was published on March 7, 1989. The EA is available upon request (see **ADDRESSES**).

This interim final rule is not subject to review under Executive Order 12291 because it involves a foreign affairs function of the United States (section 1(a)(2)). Likewise, because this rule is being published as an interim final rule rather than a proposed rule, the requirements of the Regulatory Flexibility Act do not apply. Since notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act and since no other law required that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(b) of the Regulatory Flexibility Act, no initial or final regulatory flexibility analysis has to be or will be prepared.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: December 20, 1990.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

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

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

2. Section 216.24 is amended by revising paragraph (e)(5)(iv), and by adding paragraph (e)(5)(xv), to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(e) * * *

(5) * * *

(iv) A harvesting nation that has in effect a positive finding under this section may request renewal of its finding for the following calendar year by providing the Assistant Administrator, by March 15 of the following calendar year, an update of the information listed in § 216.24(e)(5)(ii) that is current through the previous calendar year, except information requested under paragraphs (e)(5)(ii)(C)(1), and (e)(5)(ii)(C)(4) of this section, which must be submitted in a supplementary report by July 31. The information requested under paragraph (e)(5)(ii)(C)(2) of this section must also be submitted by July 31, except the information regarding eastern spinner and coastal spotted dolphin, which must be submitted by March 15.

* * * * *

(xv) In the case of a harvesting nation requesting renewal of its affirmative finding pursuant to paragraph (e)(5)(iv) of this section, the Assistant Administrator shall:

(A) Make a proposed affirmative or negative finding based on the information provided by the harvesting nation required by paragraphs (e)(5)(iv) and (e)(5)(v) of this section by April 15 of that year;

(B) Publish the proposed finding in the **Federal Register** and request public comment on the proposed finding for a period of 30 days from the date of the proposed finding;

(C) At the close of the comment period, make a final affirmative or negative finding by no later than May 31 of that year.

* * * * *

[FR Doc. 90-30199 Filed 12-26-90; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 249
Thursday, December 27, 1990

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Reg. C; Docket No. R-0719]

Home Mortgage Disclosure; Intent To Grant an Exemption From HMDA for State-Chartered Financial Institutions in Connecticut

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to grant a state exemption from HMDA and Regulation C.

SUMMARY: Financial institutions subject to the federal Home Mortgage Disclosure Act (HMDA) and its implementing rule, Regulation C, may receive an exemption from these federal provisions if the Board determines that the institutions are subject to substantially similar state mortgage disclosure requirements and the state law also contains adequate provisions for enforcement. The Connecticut Banking Commissioner has applied for an exemption from HMDA and Regulation C for certain state-chartered financial institutions in Connecticut, based on recent changes in that state's law. The Board is publishing for public comment notice of its intention to grant an exemption from the federal requirements for certain state-chartered financial institutions in Connecticut. If granted, the exemption would allow Connecticut-chartered financial institutions to file their annual home mortgage disclosure reports (beginning with the report for calendar year 1990, due on or before March 1, 1991) with their state agency, and not with their federal regulator.

DATES: Comments must be received on or before January 28, 1991. The effective date for the exemption, if adopted, would be January 1, 1990.

ADDRESSES: Comments should refer to Docket No. R-0719 and be sent to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may also be delivered to the guard station in the Eccles Building courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. weekdays. The application materials submitted by the Connecticut Banking Commissioner in support of the exemption request and comments received at the above address will be available for inspection and copying by any member of the public in the Freedom of Information Office, room B-1122 of the Eccles Building between 9 a.m. and 5 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: W. Kurt Schumacher, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412; for the hearing impaired *only*, contact Dorthea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION: The Board's Regulation C (12 CFR part 203) implements the Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*). The regulation and the act require financial institutions that have over $10 million in assets and have offices in metropolitan statistical areas (MSAs) to annually disclose to their federal supervisory agencies certain information regarding their home purchase and home improvement loans. However, the Board may grant financial institutions an exemption from compliance with the federal laws if it determines that they are subject to state provisions that are substantially similar to the federal requirements and contain adequate provisions for enforcement. Conversely, exemptions are subject to termination if the Board determines that a state law no longer imposes requirements substantially similar to the federal law or does not adequately ensure enforcement.

In 1978 certain state-chartered institutions in Connecticut were granted an exemption by the Board based on the Board's finding that substantial similarity of laws and adequate provisions for enforcement existed at that time. This exemption was continued by the Board in 1989 based on amendments to the state law that conformed with revisions made to the federal provisions. Later in 1989, the Financial Institutions Reform, Recovery, and Enforcement Act made major revisions to HMDA. (FIRREA, Pub. L. No. 101-73, § 1211, 103 Stat. 183 (1989).) The Board subsequently published revisions to Regulation C to implement these statutory changes (54 FR 51356, December 15, 1989). Based on the Board's determination that substantial similarity no longer existed as a result of the FIRREA amendments, the Board published an order terminating the exemption for state-chartered financial institutions in Connecticut, effective on January 1, 1990 (55 FR 5443, February 15, 1990).

Connecticut has applied for a new exemption for certain state-chartered financial institutions from the revised HMDA and Regulation C, based on statutory and regulatory changes Connecticut has made to the applicable state provisions. These amended provisions are found in title 36 (chapter 661), Section 36-443, *et seq.* of the Connecticut General Statutes and Section 36-455-1, *et seq.* of the Regulations of Connecticut State Agencies. The Board's preliminary determination is that the revised provisions are substantially similar to the federal requirements. The Board has also determined that adequate provisions for enforcement continue to exist. Like revised Regulation C, the Connecticut law requires the financial institutions to report the applications for home purchase and home improvement loans they receive, as well as the institutions origination and purchase of these types of loans. Institutions would report information on the location of the properties to which the covered loans or applications relate, and information concerning the race or national origin, sex, and income of applicants and borrowers. The institutions also would be required to disclose the type of purchaser for loans that they sell. The Connecticut provisions are to be carried out on reports conforming to the loan application register prescribed by Regulation C. Finally, adequate provisions for enforcement appear to exist; violators of the Connecticut law are subject to the issuance of a cease and desist order by the Commissioner, in addition to other penalties and sanctions.

The Connecticut home mortgage disclosure law covers the majority-owned subsidiaries of state-chartered depository institutions, in addition to the

depository institutions themselves. Pursuant to the revised regulatory requirements, these subsidiaries will file reports separately from those of their parent institutions. Additionally, the regulation specifies that majority-owned non-depository subsidiaries are deemed to have a home or a branch office in an MSA if they take applications for, originate, or purchase five or more home purchase or home improvement loans in that MSA during the previous calendar year. The incorporation of these provisions further ensures conformity with existing federal requirements.

The Board proposes to grant an exemption from Regulation C for Connecticut-chartered financial institutions and their majority-owned subsidiaries effective on January 1, 1990. Any final order granting an exemption would require the Commissioner to advise the Board within 30 days of the occurrence of any change in the applicable laws of Connecticut. It would also require the Commissioner to submit the annual disclosure reports it receives from state-chartered financial institutions to the Federal Financial Institutions Examination Council (FFIEC) or its designee for compilation and aggregation at such time and in such manner as determined by the FFIEC.

If after a 30-day comment period the Board confirms that this exemption is warranted, an order will be issued granting the exemption. In that event, Connecticut-chartered financial institutions and their majority-owned subsidiaries would comply with the data collection requirements of the state law as of January 1, 1990. Thus, they would file their initial annual report (for calendar year 1990) with the Connecticut Banking Commissioner on or before March 1, 1991, instead of filing reports with both their state and their federal supervisory agency. The Connecticut Banking Commissioner would then submit the institutions' reports to the FFIEC for compilation and aggregation. An exemption from the federal requirements would thus allow the institutions covered by the exemption to avoid the duplicative filing of similar reports with two separate authorities.

Interested persons are invited to submit written comments on this proposed exemption. The comments received will be made available for public inspection and copying upon request, except as provided in §§ 261.6(b) and 261.8 of the Board's rules regarding availability of information (12 CFR 261.6 *et seq.*). The application for exemption by the Connecticut Banking Commissioner is also available for public inspection and copying upon request.

Board of Governors of the Federal Reserve System, December 20, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-30261 Filed 12-26-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 70, and 75

RIN 1219-AA27

Approval Requirements for Diesel-Powered Machines, Exposure Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: Mine Safety and Health Administration (MSHA) will hold public hearings to receive public comments on the Agency's proposed regulations on the use of diesel-powered equipment in underground coal mines. The hearings will be held in the following locations: Salt Lake City, Utah; Pittsburgh, Pennsylvania; and Chicago, Illinois. Each hearing will cover major issues raised by comments submitted in response to the proposed rule.

The hearings in Salt Lake City and Pittsburgh will cover provisions in 30 CFR parts 70 and 75 addressing exposure monitoring and safety requirements for the use of diesel-powered equipment in underground coal mines. These hearings will also address issues related to the use of limited class equipment and grandfathering of equipment currently used in underground mines.

The hearing in Chicago will cover proposed provisions addressing 30 CFR part 7 approval requirements for diesel-powered machines. This hearing will also address issues related to the scope, design, and performance requirements and the establishment of time frames in which equipment not specifically approved for coal mines would be required to have additional safety and health related features.

DATES: All requests to make oral presentations for the record should be submitted at least five days prior to the hearing date. The public hearings will be held on the following dates: January 30 & 31, 1991, Salt Lake City, Utah; February 12 & 13, 1991, Pittsburgh, Pennsylvania; and February 20 & 21, 1991, Chicago, Illinois beginning at 9 a.m.

ADDRESSES: The hearings will be held at the following locations:

January 30 and 31, 1991—Clarion Hotel, Midtown Suites; 999 South Main Street; Alta A and Alta B; Salt Lake City, Utah 84111.

February 12 & 13, 1991—Lawrence Convention Center; 1001 Penn Avenue—North VII; Pittsburgh, Pennsylvania 15322.

February 20 & 21, 1991—Kluczynski Federal Building; 230 South Dearborn Street; Courtroom 3908, Chicago, Illinois 60604.

Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203 or telephone the Office of Standards at (703) 235-1910.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA (703) 235-1910.

SUPPLEMENTARY INFORMATION: On October 6, 1987, MSHA published a Notice of Establishment of the MSHA Advisory Committee on Standards and Regulations for Diesel-Powered Equipment in Underground Coal Mines in the **Federal Register** (52 FR 37381). The notice announced the Secretary of Labor's (Secretary) finding that it was in the public interest to establish the Committee to review standards and regulations related to the approval and use of diesel-powered equipment in underground coal mines, and that the Secretary was considering the promulgation of standards and regulations for diesel-powered equipment.

On January 4, 1988, a notice in the **Federal Register** (53 FR 87) announced the date of the first committee meeting. The Committee held six meetings over a six-month period. During its deliberations, the Committee addressed three broad areas of concern: approval issues—issues concerning equipment design and performance; use issues—issues concerning the safe use of diesel equipment in the underground coal mine environment; and health issues—issues concerning the evaluation and control of health hazards associated with diesel equipment. Based on the information which it examined, the Committee agreed that regulations should be promulgated by MSHA to govern the approval and use of diesel-powered

equipment in underground coal mines, and recommended that a number of specific areas be addressed. The Committee's recommendations served as the basis for the proposed rules.

On October 4, 1989, MSHA published proposed regulations in 30 CFR parts 7, 70, and 75 that addressed approval requirements for diesel-powered machines, exposure monitoring, and safety requirements for the use of diesel-powered equipment in underground coal mines (54 FR 40950). The written comment period for this proposed rule ended on July 6, 1990. In the comments to the proposed rule, MSHA received requests for public hearings.

The purpose of the public hearings scheduled by this notice is to receive relevant comments and respond to questions about the proposed rule. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

The sessions will begin with an opening statement from MSHA. The public will then be given an opportunity to make oral presentations. During these presentations, the hearing panel will be available to answer relevant questions and the hearing panel may ask questions of any speaker. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. The order of appearance will be determined by the Agency prior to the hearing. Immediately before the hearing, any unalloted time will be made available to persons making late requests. Time will be made available at the end of the hearings for rebuttal statements. A verbatim transcript of each proceeding will be taken and made part of the rulemaking record. Copies of the hearing transcript will be available for review by the public.

ISSUES: Commenters posed several questions about provisions contained in the proposed rule. Of particular concern to commenters are the issues addressed below. MSHA specifically requests comments on these issues during the hearings in addition to any other aspects of the proposal addressed in this phase of the rulemaking.

Part 7—Engines—Subpart E

The proposal states that the rule would become effective 60 days after the date of publication in the **Federal Register**. Several commenters noted that an appropriate phase-in period must be established to allow the industry to prepare for applicant or third-party testing. The phase-in period would be the time during which testing could be done by MSHA, the applicant or a third party. One commenter noted that the phase-in period for part 7 is not fully explained, and also noted that the phase-in period during which a manufacturer can apply for engine certification under part 36, which involves MSHA testing, or can apply for engine approval under subpart 7 is not fully explained. One commenter opposed equipment manufacturers conducting their own testing or having third parties conduct such tests. This commenter also suggested that test results from different laboratories would not be comparable to each other.

Under the proposal, an application for approval of a diesel engine would have to be submitted regardless of where the diesel engine is to be used underground. Several commenters stated that diesel engines and equipment that are used where non-permissible electric equipment is permitted should not require approval.

Under the proposal, MSHA would require that, for each rated speed and horsepower of an engine approved under part 7, a particulate index would be determined that shows the amount of air necessary to dilute exhaust particulate emissions to one milligram of diesel particulate per cubic meter of air (1 mg/cm^3). Some commenters believed that the particulate index should not be used to establish ventilation air requirements underground. One commenter stated that the use of a particulate index in its current form does not allow room for improved technology. The commenter went on to note that when improved technology is applied and particulates are effectively filtered before being introduced into the mine atmosphere, the particulate index should not apply. Several commenters also suggested that MSHA should clarify that the particulate index is not a part of the approval plate ventilation rate requirement. One commenter took issue with the particulate index because the health effects of the diesel particulate have not been adequately determined.

MSHA's proposal would require that ventilation rates be determined for each piece of approved equipment. Two commenters noted that the mine ventilation rate should take into account all mining conditions and mining equipment, and that this rate should not be determined during the approval process for one type or piece of mining equipment. These commenters also noted that mine ventilation is already adequately addressed in 30 CFR part 75.

Part 7—Power Packages—Subpart F

The proposal states that the rule would become effective 60 days after the date of publication in the **Federal Register**. Several commenters noted that the phase-in period must be long enough to allow for the development of competent third-party testing facilities, because sufficient time and resources are necessary to acquire and install the apparatus for the testing of explosion-proof enclosures. These commenters noted that the phase-in period for explosion tests may need to be longer than that for other tests. Another commenter stated that the requirements do not need a 60-day "grace period."

The proposal would require the calculation of a particulate index based on engine exhaust emissions, but does not provide for factoring in the application of control technology when determining the particulate index. Several commenters recommended that the power package approval should include information on methods to lower particulate emissions such as ceramic filters. MSHA specifically solicits comments on approaches that could be taken in order to consider such new control technology in determining the particulate index. One commenter noted that permissible equipment should be required throughout the entire mine for both safety and health reasons.

Part 7—Power Packages—Subpart G

The proposal states that the rule would become effective 60 days after the date of publication in the **Federal Register**. Several commenters requested that a separate phase-in period be established for subpart G to allow the industry to prepare for applicant or third party testing. Several commenters suggested that a five-year phase-in period should be established, allowing applicants to use MSHA's testing capabilities in the interim.

Part 70—Exposure Monitoring—Subpart T

The proposal would require weekly area sampling for CO, NO, and NO_2. Area sampling results that exceed 50 percent of the permissible exposure limits for CO, NO, and NO_2 would trigger representative personal exposure monitoring. When personal monitoring results indicate levels greater than 75 percent of the appropriate permissible exposure limit, MSHA's proposal would require personal monitoring to be conducted on each operational shift for the area affected.

The proposal would allow area sampling to be reinstated when personal exposure monitoring results indicate

levels less than 100 percent of the appropriate permissible exposure limit with 95 percent confidence.

Several commenters recommended that the exposure monitoring action level be revised from 50 to 75 percent of the permissible exposure limit (PEL). These commenters stated that the time-weighted average (TWA) used by the American Conference of Governmental Industrial Hygienists (ACGIH) takes into account "safety factors" such as an unlikely scenario of worker exposure at the TWA for 8 hours per day, 40 hours per week, for a working lifetime. These commenters also noted that regulatory proceedings have never before proposed action levels for such a wide variety of contaminants, and that in the past such action levels have been instituted only for specific contaminants when the need has been extensively supported. Some commenters argued that the 50 percent action level is overly stringent because in some mines prone to spontaneous combustion, the potential for 50 percent of the proposed PEL for carbon monoxide in return air is great. Thus, the action level would be triggered frequently but unnecessarily when diesel equipment may only contribute a small percentage of the carbon monoxide.

MSHA specifically solicits other information or data on an appropriate action level for area sampling.

Some commenters noted that in light of their comments submitted under MSHA's air quality proposal (54 FR 43026), the proposal for exposure monitoring under part 70 should be revised to delete any reference to the 95 percent confidence level.

Part 75—Ventilation—Subpart D

The proposal would require that minimum quantities of air in any split where any individual unit of diesel-powered equipment is operated be at least that specified on the approval plate for that equipment.

Some commenters stated that approval plate quantities should not be used to calculate ventilation requirements. These commenters suggested that approval plate values should be only used as guidelines and not as a means of establishing actual quantities. What is needed, these commenters state, is a performance-oriented measure of controlling contaminants in the workplace.

Some commenters wrote that ventilation is not the only means of controlling air contaminants in underground coal mines. These commenters stated that diesel maintenance programs to reduce emissions, as well as administrative controls such as limiting the number of diesel-powered units in a single split of air can be used to control contaminants. These commenters argued that operators should be allowed to use these methods to achieve compliance as alternatives to providing the minimum quantities of air required by the proposal.

Several commenters noted that these arguments are even more important when related to the proposed diesel particulate index, because no health-based standard currently exists for diesel exhaust particulate. Because no reliable means currently exists to sample for diesel particulate and no reliable analytical technique exists currently to quantify the diesel exhaust particulate component of respirable mine dust, these commenters question MSHA's proposal of specific ventilation requirements.

One commenter supported the use of the approval plate value, but suggested that its use should be additive and should not be reduced by use of the "100–75–50" rule. This commenter noted that the "100–75–50" rule does not provide a sufficient margin for protecting safety and health, in part because each piece of equipment may be operating simultaneously in the same split of air under the worst operating conditions for each piece of equipment.

Part 75—Diesel-Powered Equipment—Subpart T

The proposal includes several definitions in this subpart. It defines a fixed underground diesel fuel storage facility as a facility designed and constructed to remain at one location for an extended period of time for the storage or dispensing of diesel fuel and which does not move as mining progresses. A mobile underground diesel fuel storage facility would be a facility designed and constructed to provide for short term storage or dispensing of diesel fuel and which moves as mining progresses.

Several commenters stated that a fixed or permanent underground fuel storate facility should be re-defined and that the following terms be defined: Combustible liquid; hydraulic system; flash point; manned diesel-powered equipment; mobile underground diesel fuel storage facility; self-propelled underground diesel fuel storage facility; temporary underground diesel fuel storage facility; and, unmanned underground diesel-powered equipment. These commenters noted that the definitions in the proposed rule do not adequately address the different types of fuel facilities found in mining today. These commenters also noted that manual fire suppression systems are preferable to automatic systems when the equipment is manned, and recommended that the manned and unmanned definitions be added to distinguish between the two systems.

The proposal would provide certain general requirements for underground diesel fuel storage facilities including a 1,000 gallon limit on the amount of fuel stored in a fixed facility and a 500 gallon limit in a mobile facility. One commenter was opposed to any diesel fuel storage underground. This commenter stated that if an operator desired underground storage facilities, the operator could file for a petition for modification under section 101(c) of the Federal Mine Safety and Health Act of 1977. This would allow MSHA to investigate each petition and permit such underground storage facilities only on a case-by-case basis.

Some commenters would add another type of underground fuel storage facility to include a self-propelled underground fuel storage facility. These commenters would also establish specific requirements appropriate for this type of equipment.

Under certain situations, the proposal would allow mine operators to use limited class equipment which would not be required to receive formal MSHA approval, and would set out certain requirements relating to engine horsepower, weight, and other system components.

One commenter recommended that limited class equipment be approved by MSHA in a manner similar to part 7 equipment approval requirements. This commenter also recommended that the maximum horsepower and maximum weight limits for limited class equipment be reduced.

Other commenters recommended that limited class equipment be permitted to use hydraulic systems if fire resistant hydraulic fluid was utilized. In addition, these commenters suggested increasing the horsepower limit and removing the weight restrictions on limited class equipment. These commenters also recommended expanding the concept of limited class equipment to include higher horsepower and weight limits for non-haulage equipment. These commenters also recommened that limited class portable equipment be expanded to include equipment other than compressors and welders.

The proposal would require that limited class equipment have an automatic fire suppression system. Several commenters noted that an automatic fire suppression system should only be required on unmanned,

limited class equipment. These commenters stated that all other limited class equipment would be equipped with a manual or automatic fire suppression system.

The proposal would require automatic fire suppression systems for mobile diesel-powered equipment and fuel transportation units. Some commenters noted that diesel-powered equipment is being treated differently from electrical equipment, and recommended that manually operated systems be considered suitable for manned equipment. One commenter was generally supportive of the MSHA proposal. Some commenters noted that automatic fire suppresion systems are not available for use and are not proven to be safe. These commenters stated that automatic fire suppression should be required only on unattended, stationary, and portable limited class units.

MSHA's proposal would require that diesel-powered equipment be maintained, and it would require mine operators to develop standard operating procedures for testing and evaluation on a weekly basis of the undiluted exhaust emissions of diesel engines in use underground. Certain commenters stated that it was inappropriate for mine operators to develop individualized test procedures which would give non-standardized results of questionable value. These commenters stated that the Bureau of Mines has noted that research needs to be conducted before such in-mine tests can be fully standardized and used.

MSHA particularly requests further comments on these issues in the proposed rule.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until March 26, 1991.

Dated: December 20, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 90-30242 Filed 12-26-90; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Secretary of the Navy Instruction 5211.5C]

Personal Privacy and Rights of Individuals Regarding Records Pertaining to Themselves

AGENCY: Department of the Navy, DOD.

ACTION: Proposed exemption rule.

SUMMARY: Due to an administrative oversight, the Privacy Act record system notice N05800-1, entitled "Legal Office Litigation/Correspondence Files", published at 51 FR 18164, May 16, 1986, was never codified in the Code of Federal Regulations as an exempt record system. Therefore, the Navy is proposing to exempt this record system by publishing a proposed exemption rule and adding it to existing Navy exemption rules found at 32 CFR part 701.

DATE: Comments must be received on or before January 28, 1991.

ADDRESSES: Send any comments to Mrs. Gwendolyn Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000. Telephone (703) 614-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy proposes to exempt certain portions of record system N05800-1, "Legal Office Litigation/Correspondence Files" from subsections (k) (1), (2), (5), (6) and (7) of The Privacy Act of 1974 (5 U.S.C. 552a). This proposed specific exemption rule is to be added to existing Department of the Navy exemption rules found at § 701.119.

List of Subjects in 32 CFR Part 701

Privacy.

Accordingly, the Department of the Navy proposes to amend 32 CFR part 701 as follows:

1. The authority citation for 32 CFR part 701 continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 701.119 is amended to add paragraph (k)(2) as follows:

§ 701.119 Exemptions for specific Navy record systems.

* * * * *

(k) *Office of the Secretary—*

* * * * *

(2) *ID—N05800-1*

System name. Legal Office Litigation/Correspondence Files.

Exemption. Portions of this record system may be exempted from subsections of 5 U.S.C. 552a (d), (e)(1), and (f) (2), (3) and (4).

Authority. 5 U.S.C. 552a(k) (1), (2), (5), (6), and (7).

Reasons. Subsection (d) because granting individuals access to information relating to the preparation and conduct of litigation would impair the development and implementation of legal strategy. Accordingly, such records are exempt under the attorney-client privilege. Disclosure might also compromise on-going investigations and reveal confidential informants. Additionally, granting access to the record subject would seriously impair the Navy's ability to negotiate settlements or pursue other civil remedies. Amendment is inappropriate because the litigation files contain official records including transcripts, court orders, investigatory materials, evidentiary materials such as exhibits, decisional memorandum and other case-related papers. Administrative due process could not be achieved by the "exparte" correction of such materials.

Subsection (e)(1) because it is not possible in all instances to determine relevancy or necessity of specific information in the early stages of case development. What appeared relevant and necessary when collected, ultimately may be deemed unnecessary upon assessment in the context of devising legal strategy. Information collected during civil litigation investigations which is not used during the subject case is often retained to provide leads in other cases or to establish patterns of activity.

Subsections (f) (2), (3), and (4) because this record system is exempt from the individual access provisions of subsection (d).

* * * * *

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-30281 Filed 12-26-90; 8:45 am]

BILLING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-309, FCC 90-364]

Broadcast Service; Network Representation Rule

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Commission terminates a proceeding which considered amending or repealing the "network representation rule," § 73.658(i) of the Commission's Rules, 47 CFR 73.658(i), to permit television stations, other than those "owned and operated" by their television network to be represented by their network in the non-network (spot) sales market. The action is taken to close the proceeding in a way which contributes to the Commission's goals of encouraging the growth of new networks, fostering foreign language programming, increasing programming diversity, strengthening competition among stations; and fostering a competitive UHF service. In a document published in the Rules section of this issue, the Commission *Order (Report)* makes permanent the "temporary" waivers of the "network representation rule" granted to Univision, Inc., the Latin International Network Corporation, and the Telemundo Group, Inc.

DATES: This withdrawal is effective December 27, 1990.

ADDRESSES: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Judith Herman, Mass Media Bureau, Policy and Rules Division (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in BC Docket No. 78–309, adopted November 2, 1990, and released December 3, 1990.

The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. This *Report and Order (Report)* terminates a proceeding initiated in 1978 (*See Memorandum Opinion and Order and Notice of Proposed Rule Making* in BC Docket No. 78–309, 43 FR 45895, October 4, 1978) to consider amending or repealing the "network representation rule," § 73.658(i) of the Commission's Rules (47 CFR 73.658(i)). That rule section prohibits television stations, other than those "owned and operated" by a television network, from being represented by their network in the non-network (spot) sales market. (The definition of a network organization, for purposes of this rule, is any organization that provides an identical program to be broadcast simultaneously by two or more interconnected stations.) Upon review of the record developed in this proceeding, the Commission finds that no change in the network representation rule is warranted.

2. The proceeding was initiated in response to a request from the Spanish International Network (now known as Univision) that it be granted a waiver of the rule so that it could continue to act as the representative of its affiliates in national spot advertising sales. At that time, the Commission granted Univision a temporary waiver of the rule pending resolution of this proceeding, and sought comment in the *Memorandum Opinion and Order and Notice of Proposed Rule Making (Notice)* about whether it was appropriate to continue to include emerging networks, such as Univision within the scope of the network representation rule. A *Further Notice of Proposed Rule Making (Further Notice)*, which can be found at 53 FR 18305 (May 23, 1988), was issued, proposing to explore a full range of policy options: first, whether to modify the network representation rule explicitly to exclude emerging networks from the scope of the rule; second, whether to eliminate the network representation rule in its entirety, and, third, whether to retain the network representation rule in its present form, with an appropriate waiver policy.

3. The network representation, adopted in 1959, is one of a group of television "network" rules intended to affect the relationship between a network and its affiliate stations by prescribing certain commercial practices in the network-affiliate relationship. The rule protects broadcast affiliates from the networks' exerting influence over affiliate programming decisions, and fosters competition in the local and national broadcast television markets.

4. The Commission now finds first, that the weight of the record evidence and our own experience in this area supports a conclusion that there are no public interest benefits sufficient to warrant any changes in the rule. Moreover, the Commission recognizes that changing the network spot sales rule could affect the competitive balances in the broadcast industry. The Commission is presently conducting a proceeding in MM Docket No. 90–162, concerning the financial interest and syndication rules. (See *Notice of Proposed Rule Making* at 55 FR 11222, March 27, 1990, and *Further Notice of Proposed Rule Making* at 55 FR 47496, November 14, 1990.) That proceeding could ultimately result in rule changes which might alter certain relationships in the broadcast industry. The Commission believes that it is important not to disturb too many facets of the industry at the same time. Also, the Commission's limited resources do not permit resolution of all questions at once. The record in this proceeding does not reflect a great urgency in the need to change the network spot sales rule. This is particularly true in light of the limited degree of interest expressed in the comments of two of the networks, Capital Cities/ABC, Inc and CBS, Inc., in expanding their role in the national spot sales market. Accordingly, this proceeding will be terminated without altering the present rule.

Final Regulatory Flexibility Analysis Statement

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will not have a significant impact on a substantial number of small entities because it simply terminates the proceeding.

6. The Secretary shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

7. Accordingly, *it is ordered*, That BC Docket No. 78–309 is terminated.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–30088 Filed 12–26–90; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 55, No. 249
Thursday, December 27, 1990

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

DEPARTMENT OF AGRICULTURE

Forest Service

Wild and Scenic River Analysis, Bergan Fire Salvage Timber Sale and Other Fire Recovery Projects, Ochoco National Forest, Harney County, Oregon

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) for analysis of Silver Creek for incorporation into the Wild and Scenic Rivers System, and six proposed actions in the burned portion of the Silver Creek Roadless Area. These six proposed actions include:

(1) Salvage harvest of 6 Million Board Feet (MMBF) of burned timber on 763 acres, using helicopter logging systems,

(2) Closure of 2.3 miles of system road,

(3) Rehabilitation of 2.9 miles of riparian area,

(4) Reforestation of 496 acres of burned timber stands,

(5) Forage seeding on 1,500 acres of burned area for wildlife and livestock; and

(6) Contour felling of dead trees on 763 acres, for erosion control.

The purpose of the EIS will be to develop and evaluate a range of alternatives to these proposed projects and recommendations for Wild and Scenic Rivers status. The alternatives will include the proposed actions as an alternative, and a no action alternative. The proposed actions will be in compliance with the direction in the Ochoco National Forest Land and Resource Management Plan (Forest Plan) which provides the overall guidance for management of the area and the proposed projects for the next ten to fifteen years. The agency invites written comments on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by January 31, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Tom Schmidt, Forest Supervisor, Ochoco National Forest, P.O. Box 490, Prineville, OR 97754.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Jim Keniston, District Ranger, Snow Mountain Ranger District, Ochoco National Forest, phone (503) 573-7292.

SUPPLEMENTARY INFORMATION: On August 6, 1990, a dry lightning storm ignited a series of fires near the town of Burns, Oregon. The fires ultimately became catastrophic, requiring substantial fire suppression efforts. One of the fires, called the "Buck Springs Fire Complex," burned approximately 18,230 acres. About 1,243 acres of this was in the Silver Creek Roadless Area, referred to as Management Area 10 (MA-F10) in the Forest Plan. On November 19, 1990, Acting Forest Supervisor, Charles T. Downen, signed a Decision Notice for the Buck Springs Fire Recovery, initiating a number of projects, including timber salvage in the "Buck Springs Fire Complex." In making the decision, Supervisor Downen concluded that entering the Silver Creek Roadless Area with the proposed projects may cause "significant effects" to the environment within the Silver Creek Area, and therefore directed the initiation of an environmental impact statement, with the goal of completing it by the end of June, 1991. This significance determination was based on the following conclusions:

(1) Management of unroaded areas may have long-term effects on the nation or society as a whole.

(2) Unique characteristics are identified with the Silver Creek Roadless Area including: sensitive fish and plants, wild and scenic river character, roadless recreational character, and its value as a biological reserve with adjacent National Forest and Bureau of Land Management Research Natural Areas.

(3) Due to on-going appeals of the Ochoco National Forest Land and Resource Management Plan, and other public input, the effects on the "human environment" are likely to be controversial.

(4) The proposed actions may have a cumulative effect on roadless resources throughout the Ochoco National Forest and beyond.

The unroaded area associated with Silver Creek has twice been considered for wilderness designation; once under the Roadless Area Review and Evaluation (RARE II) process, and again during the proceedings for the Oregon Wilderness Act of 1984. In both cases, the result was nonwilderness.

Of the original 11,670 acres considered as unroaded during the RARE II process, 7,459 still meet "Roadless Area criteria."

Through the Forest Plan, the Regional Forester in Region 6 made the determination of how the Silver Creek unroaded area was to be managed for 10 to 15 years, starting on September 15, 1989. This was done by allocating land to specific management areas. Of the original 11,670 acres considered unroaded during the RARE II process, 3,110 acres have been allocated to semiprimitive, nonmotorized recreation (MA-F10 Silver Creek Roadless Area), and an additional 845 acres have been recommended to be included in the Research Natural Area system (MA-F5 Research Natural Areas). The remaining 7,715 acres have been allocated to a combination of recreation, riparian, and general forest uses. The seven proposed projects associated with the Buck Springs Fire are planned to occur solely in MA-F10 Silver Creek Roadless Area. The management emphasis for this management area is to:

"Protect and enhance the roadless qualities and provide nonmotorized recreational use."

The allocation for MA-F10 Silver Creek Roadless Area does not allow scheduled timber harvest, but does allow for salvage of timber resulting from catastrophic events.

The Forest has done some preliminary scoping and has developed a tentative list of issues which revolve around the following environmental components in the Silver Creek Roadless Area: biological diversity, semiprimitive recreation, water quality, wild and scenic river status, forage and livestock management, and forest residues and fire.

Two of the on-going appeals of the Forest Plan focus on two issues

surrounding the Silver Creek unroaded area. One involves a request that the entire unroaded area meeting Roadless Area Criteria (7,459 acres), be allocated to semiprimitive nonmotorized recreation with no road building or timber harvest allowed. This question will not be addressed in this analysis. The second involves a request that Silver Creek be recommended for inclusion into the Wild and Scenic Rivers system, which is one of the objectives of this analysis.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft EIS. the scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental process.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by April 1991. At the time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Ochoco National Forest participate at that time.

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

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviews of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed by June 1991. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Tom Schmidt, Forest Supervisor, Ochoco National Forest, is the responsible official. As the responsible official, he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 217).

Dated: December 17, 1990.

Thomas A. Schmidt,

Forest Supervisor.

[FR Doc. 90–30311 Filed 12–26–90; 8:45 am]

BILLING CODE 3410–11–M

Canyon Timber Sales and Other Projects, Siskiyou National Forest, Josephine and Curry Counties, Oregon

AGENCY: Forest Service, USDA.

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

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an Environmental Impact Statement (EIS) for a set of proposals to implement two timber sales and other resource management projects. The specific projects include: (1) Harvest of timber from two timber sales; (2) development of associated road systems; and (3) miscellaneous projects related to trail system development, dispersed recreation facilities, historical and botanical interpretive sites, and wildlife habitat enhancement.

The Proposed Actions are located approximately 6 miles west of Cave Junction, Oregon, in the Canyon and Josephine Creek drainages of the Illinois Valley Ranger District, Siskiyou National Forest. Projects would be implemented in accordance with direction in the Siskiyou National Forest Land and Resource Management Plan.

The agency gives notice that the environmental analysis process, directed by the National Environmental Policy Act (NEPA), is underway. Interested and potentially affected persons, along with local, State and other Federal agencies, are invited to participate and contribute to the environmental analysis. The Siskiyou National Forest invites written input regarding the issues specific to the Proposed Actions.

DATES: Written input concerning issues with this Proposed Action must be filed by January 31, 1991.

ADDRESSES: Submit written input to District Ranger, Illinois Valley Ranger District, 26568 Redwood Highway, Cave Junction, Oregon 97523.

FOR FURTHER INFORMATION: Direct questions about the Proposed Action and EIS to William Gasow, Project Leader, Siskiyou National Forest, 200 N.E. Greenfield Road, P.O. Box 440, Grants Pass, Oregon 97526–0242 (telephone: (503) 479–5301)

SUPPLEMENTARY INFORMATION: The purpose of the Proposed Actions is to implement management direction and projects identified in the Siskiyou National Forest Land and Resource Management Plan (Forest Plan EIS, which provides goals, objectives, standards and guidelines for the various activities and land allocations on the Forest. The following Proposed Actions are derived from two key elements in the Forest Plan; (1) the capital investment opportunities (appendix B), and (2) the ten-year action plan (appendix C). Some of the proposed trail construction proposals also resulted from previous public input.

Proposed Timber Sales and Associated Roads

(a) The Hungry Two Timber Sale would harvest approximately 6,864 thousand board feet (MBF) from approximately 534 acres. Six (6.0) miles of new road construction would be required to access the timber. Proposed harvest methods and estimated harvest volumes include: (1) Clearcut harvest, 23 acres, 690 thousand board feet (MBF); (2) Seed Tree harvest, 148 acres, 1,036 MBF; (3) Shelterwood harvest, 188 acres, 2,756 MBF; (4) Overstory Remvoal harvest 26 acres, 208 MBF; and (5) Individual Tree Selection (uneven-aged management) 119 acres, 2,174 MBF. Skyline and helicopter yarding systems would be used to harvest the timber. The timber sale is scheduled for offering in Fiscal Year 1992. Stands proposed for harvest are located within Sections 22, 26, 27, 32, 33, and 34; Township 38 South; Range 9 West; and within Sections 4 and 5; Township 39 South; Range 9 West (Williamette Meridian).

(b) The Canyon Timber Sale would harvest approximately 4,264 thousand board meet (MBF) from approximately 481 acres. To access the timber, five (5.0) miles of new road construction would be required. Proposed harvest methods and estimated harvest volumes include: (1) Clearcut harvest, 27 acres, 243 thousand board feet (MBF); (2) Seed Tree harvest, 40 acres, 400 MBF; (3) Shelterwood harvest, 260 acres, 3,120 MBF; (4) Group Selection (uneven-aged management) 141 acres, 423 BMB; and (5) Individual Tree Selection (uneven-aged management) 13 acres, 78 MBF. Skyline and helicopter yarding systems would be used to harvest the timber. The timber sale is scheduled for offering in Fiscal Year 1993. Stands proposed for harvest are located within Sections 1, 3, 7, 9, 10, 15, 18, and 19; Township 39 South; Range 9 West (Williamette Meridian).

Proposed Additions to the Forest Trail System

Develop trails in the area by improving the conditions of existing tractor roads, abandoned mining ditches, and segments of old mining roads. Construction of trails will be designed to take advantage of ditches or abandoned roads wherever practicable. Approximately 5.8 miles of trail construction are being proposed; with about half of it using tread that was constructed earlier for some other purpose (mining or logging).

(a) Construct a non-motorized trail that accesses the historic mining area along Josephine Creek. This trail would use stretches of abandoned mining ditches and provide the hiker a travel route from the mouth of Fiddler Gulch to the Canyon Creek Trail (#1121) at the mouth of Canyon Creek. The proposed route traverses approximately 1.5 miles.

(b) Create an on-motorized trail loop to access Fiddler Gulch and Hungry Hill from the terminus of road #4201029 at Fiddler Gulch. This 2.5 miles of trail would add a variety of several stages on Old-Growth riparian habitats that are not available along the existing route. This trail would involve trailhead construction at the end of the Josephine Creek Road or the Hungry Hill Road.

(c) Relocate a section of the Canyon Peak Trail that would be displaced by the proposed road. The proposed route traverses approximately 1.8 miles.

Proposed Historical and Botanical Interpretive Sites

(a) Implement Forest Plan direction to develop the T.J. Howell Botanical Drive. This self-guided auto tour would highlight the internationally famous botanical abundance of the area by recognizing some of the finds of the pioneer botanist Thomas Jefferson Howell. The Proposed Action would include several botanical interpretive sites in close proximity to Forest Road #4201, between Highway #199 and the Kalmiopsis Wilderness. The following sites have been identified as potential stops along the T.J. Howell Botanical Drive:

BLM Bog Walk;
Days Gulch Botanical Area
Eight Dollar Mountain Overlook
Serpentine Contact Trail
Port Orford-cedar Site
Weeping Spruce Overlook

(b) Develop historical mining interpretive sites at the mouth of Nogle Creek.

Dispersed Recreation Facilities

(a) Improve road surface, stream crossings and turnouts on the Josephine Creek Road (#4201029) to facilitate access by horse trailers for recreational riding.

(b) Construct additional sanitation facilities at Babyfoot Lake to accommodate large groups that sometimes use the area.

(c) Redesign Onion Camp dispersed recreation site to improve traffic flow. The site currently is being impacted by excessive vehicle and foot traffic. Remove substandard facilties (out house and picnic table.) Encourage a "Pack-it-out" philosophy.

Fish Habitat Improvement

Resident fish non-structural improvement. Riparian shade will be enhanced through planting hardwoods along Hansen Gulch, Sebastopol Creek, Rocky Bar Gulch and Lightning Gulch.

Wildlife Habitat Improvement

(a) Bluebird habitat enhancement. Encourage bluebird use of existing clearcuts by the addition of nest boxes.

(b) Band-tailed pigeon habitat improvement. Develop springs, mineral sources, and planting of forage species for use and benefit of band-tailed pigeons.

Threatened, Endangered and Sensitive Species

(a) Northern spotted owl—General survey to locate nest and roost sites for pairs of owls and singles.

(b) Botanical—Sensitive plant surveys will be completed in areas where activities are proposed.

(c) Botanical—Threatened, Endangered, and Sensitive (T&E) species habitat improvements which protect habitat (especially in Days Gulch Botanical Area) by preventing off-road vehicle access through sensitive plant areas.

(d) Botanical Areas—Inventory, information, education, trails, and overlooks (see write-up for T.J. Howell Botanical Drive under Interpretive Sites).

(e) Inventory for other T&E and Sensitive wildlife species—Surveys will be conducted for a variety of species (peregrine falcon, Del Norte's salamander, etc.) that may potentially occur in proposed activity areas.

(f) Bat Roosting Habitat Improvement for Townsends Big Ear Bat—Old mining tunnels will be reviewed to see if enlargement or maintenance will enhance roosting habitat which is limiting for this species.

Alternatives to the Proposed Action: Public input and internal agency scoping will be used to determine significant issues with the Proposed Action. These issues will in turn be used to develop alternatives to the Proposed Action. The No Action Alternative will be analyzed.

Public Involvement: The Forest Service is seeking input from individuals, organizations, and local, State and Federal agencies who may be interested in or affected by the Proposed Action. Other avenues for public participation are public meetings and commenting to the draft EIS.

Public meetings will be scheduled periodically during the preparation of the draft EIS. Meetings will be announced through mailings and through notices in local newspapers. Notices of public meetings will also be published in the Legal Notices section of

the *Grants Pass Courier*, Grants Pass, Oregon, and in the *Illinois Valley News*, Cave Junction, Oregon.

A mailing list has been compiled for the analysis. Interested individuals and agencies may have their names added to this list at any time by submitting a request to Patty Burel, Project Public Affairs Assistant, Siskiyou National Forest, 200 NE. Greenfield Road, P.O. Box 440, Grants Pass, Oregon 97526–0242.

Commenting to the Draft Environmental Impact Statement: The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review and commenting by April, 1991. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. Time limits for commenting will be published in the draft EIS. Guidelines for substantive commenting can be found at 40 CFR 1503.3(a).

The final EIS is scheduled to be completed by September, 1991. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the Proposed Action.

The Responsible Official is the Forest Supervisor, Siskiyou National Forest, 200 NE. Greenfield Road, P.O. Box 440, Grants Pass, Oregon 97526–0242. The Responsible Official will decide which, if any, of the Proposed Actions or Alternatives will be implemented. 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 Forest Service Appeal Regulations at 36 CFR part 217.

Dated: December 18, 1990.

J. Michael Lunn,

Forest Supervisor.

[FR Doc. 90–30312 Filed 12–26–90; 8:45 am]

BILLING CODE 3410–11–M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: Arms Control and Disarmament Agency.

ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, DC 20451 (202) 647–2034.

The following are the names and present titles of the individuals appointed to the register from which Performace Review Boards will be established by the U.S. Arms Control and Disarmament Agency during the period beginning on the effective date of this notice and ending when a new register is published in approximately one year. Specific Performance Review Boards will be established as needed from this register. These appointments supersede those in the announcement published at 54 FR 46282 on Nobember 2, 1989.

Name	Title
Stephen Read Hanmer Jr.	Deputy Director.
Mariner G. Cox	Executive Assistant.
Manfred Eimer	Assistant Director, Verification and Implementation Bureau.
Edward Lacey	Deputy Assistant Director, Verification and Implementation Bureau.
O. James Sheaks	Chief, Verification Division, Verification and Implementation Bureau.
Bradley Gordon	Assistant Director, Nonproliferation Policy Bureau.
Norman Wulf	Principal Deputy Assistant Director, Nonproliferation Policy Bureau.
Vincent DeCain	Deputy Assistant Director, Nonproliferation Policy Bureau.
Robert Rochlin	Chief Scientist, Nonproliferation Policy Bureau.
Michael Rosenthal	Chief, International Nuclear Affairs Division, Nonproliferation Policy Bureau.
Robert Summers	Chief, Nuclear Safeguards and Testing Division, Nonproliferation Policy Bureau.
Michael Moodie	Assistant Director, Multilateral Affairs Bureau.
David Clinard	Principal Deputy Assistant Director, Multilateral Affairs Bureau.
Donald Mahley	Deputy Assistant Director, Multilateral Affairs Bureau.
Susan Koch	Assistant Director, Strategic and Nuclear Affairs Bureau.
R. Lucas Fischer	Deputy Assistant Director, Strategic and Nuclear Affairs Bureau.
Stanley Riveles	Chief, Strategic Affairs Division, Strategic and Nuclear Affairs Bureau.
Karin Lawson	Chief, Theater Affairs Division, Strategic and Nuclear Affairs Bureau.
David Wollan	Chief, Defense and Space Division, Strategic and Nuclear Affairs Bureau.
William J. Montgomery	Administrative Director.
Thomas Graham, Jr.	General Counsel.
Mary Elizabeth Hoinkes	Deputy General Counsel.
Norman Clyne	Special Assistant to the General Counsel.
Richard Holwill	Director of Congressional Affairs.
Joerg Menzel	Principal Deputy of the On-Site Inspection Agency.
Barry Daniel	Director of Public Affairs.
Alfred Liegerman	Director, Operations Analysis Group.
Michele Markoff	Senior Policy Advisor.

William J. Montgomery,

Administrative Director.

[FR Doc. 90–30253 Filed 12–26–90; 8:45 am]

BILLING CODE 6820–32–M

COMMISSION ON CIVIL RIGHTS

Nevada Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 12 noon on January 18, 1991, at the Offices of Walther, Key, et al., Conference Room, 3500 Lakeside Court, suite 200, Reno, Nevada 89509. The purpose of the meeting is to plan Committee projects and future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Margo Piscevich or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). 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 provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 18, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-30207 Filed 12-26-90; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 10 a.m. on Monday, January 21, 1991, in the Conference Room of the Vermont Historical Society, Pavillion Building, 109 State Street, Montpelier, Vermont, recess at 12, and reconvene at 12:15 in the Pavilion Buildings' Lobby Hall for ceremonies commemorating Dr. Martin Luther King, Jr.

The purposes of the meeting are to survey issues and adopt a project for 1991, discuss the Advisory Committee's report, Ageism Affecting the Hiring and Employment of Older Workers, and release the report during a ceremony commemorating Dr. Martin Luther King, Jr., and involving a variety of Civil rights organizations plus public officials and interested individuals.

Persons desiring additional information, or planning a presentation to the Advisory Committee, should contact Committee Chairperson, Eloise R. Hedbor (802/372-4014, -6653), or Eastern Regional Division Director John I. Binkley (202/523-5264; 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 provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 19, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-30208 Filed 12-26-90; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Utah Advisory Committee to the Commission will convene at 7 p.m. and adjourn at 9 p.m., on January 15, 1991, at the Holiday Inn, 1659 West North Temple, Salt Lake City, Utah 84116. The purpose of the meeting is to discuss program planning and future Advisory Committee projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert E. Riggs or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 18, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-30209 Filed 12-26-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 900955-0255]

Approval of Federal Information Processing Standards Publication 159, Detail Specification for 62.5-μm Core Diameter/125-μm Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide Fibers (Former Federal Standard 1070)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice. The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 159, Detail Specification for 62.5-μm Core Diameter/125-μm Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide Fibers (Former Federal Standard 1070). This standard adopts a voluntary industry standard (American National Standard/EIA/TIA-492AAAA-1989 dated February 1989).

SUMMARY: On March 21, 1989, notice was published in the **Federal Register** (54 FR 11587) that a computer-related telecommunications standard was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST and the National Telecommunications and Information Administration (NTIA). On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standards Publication, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard is effective July 1, 1991.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Shirley M. Radack, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975-2833.

Dated: December 21, 1990.

John W. Lyons,

Director.

Federal Information Processing Standards Publication 159

Announcing the Standard for Detail Specification for 62.5-μm Core Diameter/125-μm Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide Fibers

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the

Computer Security Act of 1987, Public Law 100–235.

1. *Name of standard.* Detail Specification for 62.5–μm Core Diameter/125–μm Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide fibers (FIPS PUB 159) (Former Federal Standard 1070).

2. *Category.* Telecommunications Standard.

3. *Explanation.* This standard, by adoption of American National Standard/EIA/TIA–492AAAA–1989, defines the optical, geometrical, environmental, and mechanical specifications for glass (EIA/TIA–458–A–1984 Class Ia) multimode optical waveguide fibers. Minimum acceptable values for all characteristics are given, and applicable industry standards for their measurement are referenced.

4. *Approving authority.* Secretary of Commerce.

5. *Maintenance agency.* National Communications System, Office of Technology and Standards.

6. *Related documents.*

a. EIA/TIA–458–A–1984, Optical Waveguide Fiber Material Classes and Preferred Sizes.

b. EIA/TIA–472–Series.

c. EIA/TIA–455–Series.

7. *Objectives.* The purpose of this standard is to facilitate interoperability among telecommunication facilities and systems of the Federal government and compatibility of these facilities and systems at the computer-communications interface with data processing equipment (systems) of the Federal government by specifying standard characteristics for multimode optical fiber waveguides (hereafter referred to as "fibers") for use in electro-optical communication systems applications.

8. *Applicability.* American National Standard/EIA/TIA–492AAAA–1989 shall be used by all departments and agencies of the Federal Government in the planning, design, and procurement, including lease and purchase, of all new communication systems that utilize multimode optical fiber. (Specific exceptions are the use of multimode fiber: (a) In the DOD tactical area and (b) in certain secure systems design, where, in both cases, other fiber sizes have been specified and qualified.) Primary applications include, but are not limited to, on-premises inter- and intrabuilding systems. This includes both the "wiring" of new buildings and the upgrading of existing plant. The standard is not intended to hasten the obsolescence of equipment currently existing in the Federal inventory; nor is it intended to provide systems engineering or applications guidelines.

9. *Specifications.* American National Standard/EIA/TIA–492AAAA–1989, Detail Specification for 62.5–μm Core Diameter/125–μm Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide Fibers.

10. *Implementation.* This standard is effective July 1, 1991.

a. *General.* Adherence to a standard that specifies a single fiber size contributes to the economic and efficient use of resources by avoiding proliferation of local or vendor-unique standards, and is necessary to facilitate development of interoperable optical fiber communication systems and the associated components such as cables, connectors, and couplers, as well as light sources and detectors. Specification of minimum acceptable values for other basis performance parameters provides assistance to the user in multivendor procurement. For the user requiring state-of-the-art systems performance, these values may serve as benchmarks for use in cost/performance analyses when evaluating fibers whose specifications exceed those of this standard.

b. *Specified fiber characteristics.* The requirements of this standard are those values and inspection requirements specified in American National Standard/EIA/TIA–492AAAA–1989, "Detail Specification for 62.5-μm Core Diameter/125-μm Cladding Diameter Class Ia Multimode, Graded-Index Optical Waveguide Fibers." Minimum acceptable values, applicable standards for their measurement, and Qualification Approval/Quality Conference Inspection Performance Testing requirements are summarized in Tables I and II of that standard. The referenced measurement standards are EIA/TIA-adopted Fiber Optic Test Procedures (FOTPs), which are subsets of EIA/TIA-455, "Standard Test Procedures for Fiber Optical Fibers, Cables, Transducers, Connecting and Terminating Devices."

c. *Graded parameters and the EIA/TIA detailed specification extension.* Three parameters specified in American National Standard/EIA/TIA–492AAAA–1989 are designated graded parameters: Two primary performance parameters (Attenuation Coefficient and Information Transmission Capacity, or bandwidth length product) and Length. For these three attributes, a range of permissible values is given, comprising a "shopping list" permitting performance/cost tradeoff analysis for individual procurements. The user must, however, give specific acceptable values for each individual procurement—or accept the probability of receiving the lowest performance allowable within the graded range.

11. *Conflict with referenced documents.* Where the requirements stated in this document conflict with any requirements in a referenced document, the requirements of this standard shall apply. The nature of the conflict between this standard and a referenced document shall be submitted in duplicate to the Director, National Computer and Systems Laboratory, Technology Building, room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

12. *Waivers.* Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology, attn: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Special information.* This document provides Federal departments and agencies with standardized procurement specifications for multimode optical fibers targeted toward (but not limited to) on-premises applications, i.e., for use within buildings and building campuses, including local area network- and PBX-type systems, where optical fiber transmission is selected.

Restriction of these specifications to glass, graded-index, multimode fibers is deliberate; the technologies represented by mulivendor commercial availability of such fibers have matured to the point where standardization is technologically feasible. This standardization will facilitate systems compatibility and transportability of terminals for Federal users, assure a quality of performance consistent with existing industry capabilities, eliminate inventory requirements for various fiber sizes and types, and provide a cost-effective basis for competitive procurement.

It is acknowledged that typical Federal procurement will be of *cabled* fiber, and this standard shall therefore be supplemented by future planned standard specification of cable jacketing, strength, and other pertinent characteristics. A family of optical fiber cable Detail Specifications in the EIA/TIA 472-Series is under preparation at the time of publication of this fiber standard, which will comprise the fiber specifications for those standards. Adoption of these voluntary industry standards as American National Standards and Federal standards is planned subsequently.

There is no intent that this standard should preclude future Federal specifications of other fiber types for applications such as on-premises use when component and systems technology evolution provides efficient and cost-effective alternatives. These may include single-mode fiber, use of materials other than glass, or different fiber designs resultant, for example, from maturation of coherent optical detection.

Single-mode fiber, with a mode diameter of 9 to 10 μm, is the fiber of choice for long-distance applications because of its low loss and high information transfer capacity. However, for short-haul applications where Light Emitting Diodes (LEDs) are today's preferred optical sources because of cost efficiency, the single-mode fiber couples much less power compared to the multimode option. It also requires more precision, and therefore higher cost, in connectors and splices in a connection-intensive environment.

14. *Where to obtain copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 159 (FIPSPUB159), and title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

Copies of the EIA standards can be obtained from the Electronic Industries Association, 2001 Eye Street NW., Washington, DC 20006, (202) 457–4900.

[FR Doc. 90–30343 Filed 12–26–90; 8:45 am]
BILLING CODE 3510–CN–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendments of Visa Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

December 20, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATES: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

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 existing visa arrangement is being amended to include the coverage of textile products in merged Categories 351/651, produced or manufactured in Korea and exported from Korea on and after January 1, 1991.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 37 FR 10605, published on May 25, 1972.

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

December 20, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 19, 1972, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, concerning visa requirements for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea.

Effective on January 1, 1991, you are directed to permit entry into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) of merchandise in Categories 351 and 651 exported on and after January 1, 1991 for which the Government of the Republic of Korea has issued either as merged Categories 351/651 or the correct category corresponding to the actual shipment. For example, Categories 351 and 651 may be visaed as Categories 351/651, or if the shipment consists solely of Category 351 merchandise, the shipment may be visaed as Category 351, but not Category 651.

Shipments entered or withdrawn from warehouse on or after January 1, 1991 which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

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

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–30367 Filed 12–26–90; 8:45 am]
BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of Defense.
ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Application form, and applicable OMB Control number: Statement of Personal Injury—Possible Third Party Liability—CHAMPUS/CHAMPVA; DD Form 2527; and OMB Control Number 0704–0094

Type of request: Extension.

Average burden hours/minutes per response: 34 minutes.

Frequency of response: On occasion.

Number of respondents: 30,000.

Annual burden hours: 17,000.

Annual responses: 30,000.

Needs and uses: The Statement of Personal Injury—Possible Third Party Liability Form is completed by CHAMPUS/CHAMPVA beneficiaries suffering from personal injuries and receiving medical care at Government expense. The information is necessary in the assertion of the Government's right to recovery under the Federal Medical Care Recovery Act. The data is used in evaluating and processing these claims.

Affected public: Individuals or households, Federal Agencies or employees.

Frequency: Continuing.

Respondent's obligation: Voluntary but required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at the Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written request for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22203–4302.

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30282 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Environmental: Chlorofluorocarbons (CFCs) Advisory Committee; Meeting

ACTION: Notice of meeting.

SUMMARY: This is another in a series of meetings to be held by the CFC Advisory Committee and Subcommittees to study the feasibility and cost within DoD of substituting chemicals or technologies to replace ozone depleting chemicals whose production is restricted by the Montreal Protocol.

DATES: January 9–10, 1991.

ADDRESSES: Two Crystal Park, Advanced Technology Conference Room, 2121 Crystal Drive, Suite 200, Arlington, VA 22207.

FOR FURTHER INFORMATION: Mr. William D. Goins (703) 325–2215.

SUMMARY INFORMATION: The Subcommittees will meet on January 9, 1991 at different locations in the Washington, DC area. For details on the Subcommittee meeting please contact Mr. Goins or Mr. Charles W. Purcell at (202) 646–6082. Due to limited space and security considerations please contact Mr. Purcell for attendance information and admission number.

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30283 Filed 12–26–90 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board will meet in closed session on January 30–31, May 1–2, and October 9–10, 1991 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: December 21, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30284 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Follow-on Forces Attack; Meeting

ACTION: Change in date of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Follow-on Forces Attack scheduled for December 11–12, 1990 as published in the **Federal Register** (Vol. 55, No. 227, page 49102, Monday, November 26, 1990, FR Doc. 90–27603) will be held on January 24–25, 1991.

Dated: December 21, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30286 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Strategic Sensors; Meeting

ACTION: Change in date and location of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Strategic Sensors scheduled for December 21, 1990 at DBA, Inc, in Fairfax, Virginia as published in the **Federal Register** (Vol. 55, No. 237, Page 50758, Monday, December 10, 1990, FR Doc. 90–28884) will be held on April 5, 1991 in the Pentagon, Arlington, Virginia.

Dated: December 21, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30287 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Anti-Submarine Warfare; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Anti-Submarine Warfare will meet in closed session on January

22 and 23, 1991, at the Naval Ocean Systems Center, San Diego, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will deliberate on findings and recommendations and begin drafting a final report.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. app. II (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: December 21, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30288 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Chemical Weapons Policy; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Chemical Weapons Policy will meet in closed session on January 16, 1991, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will receive a briefing on chemical weapons deterrence policy and continue with formulation of findings and recommendations.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: December 21, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30289 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–W

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463 , notice is hereby given of a forthcoming meeting of the Executive Committee of the (DACOWITS). The purpose of the meeting is to review unresolved resolutions made by the committee at the DACOWITS 1990 Fall Conference; review the Subcommittee Issue Agenda; and discuss issues relevant to women in the Services. All meeting sessions will be open to the public.

DATES: February 11, 1991, 9:30 a.m.–4:00 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Mary C. Pruitt, Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, room 3D769, Washington, DC 20301–4000; telephone (202) 697–2122.

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–30285 Filed 12–26–90; 8:45 am]

BILLING CODE 3810–01–M

Privacy Act of 1974; New Record System Notice

AGENCY: Office of the Secretary, Defense.

ACTION: Proposed new record system.

SUMMARY: The Office of the Secretary of Defense proposes to add a new exempt record system to its inventory of record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed action will be effective without further notice on January 28, 1991, unless comments are received that would result in a contrary determination.

ADDRESSES: Mr. Dan Cragg, OSD Privacy Act Officer, OSD Records Management and Privacy Act Branch, Room 5C315, Pentagon, Washington, DC 20301–1155. Telephone (703) 695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Joint Staff record systems notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

50 FR 22090, 29 May 1985 (DoD compilation, changes follow)

51 FR 23573, 30 Jun 1986

A new record system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on December 17, 1990, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985).

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

JS006.CND

SYSTEM NAME:

USSOUTHCOM Counter Narcotics Database.

SYSTEM LOCATION:

U.S. Southern Command Support Center, ATTN: SCJ6–C, 1401 Wilson Boulevard, Arlington, VA 22209–2306.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

Persons suspected of involvement in international narcotics trafficking, as determined by federal law enforcement agencies (e.g., Bureau of Alcohol, Tobacco and Firearms; Coast Guard; Customs; Drug Enforcement Administration; Defense; Federal Aviation Administration; Federal Bureau of Investigation; Immigration and Naturalization Service; Internal Revenue Service; Justice; Secret Service; State; U.S. Marshals; and, El Paso Intelligence Center (EPIC), a multi-agency tactical intelligence processing and analysis facility.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Information consisting of name, Social Security Number (if applicable), date of birth, current or previous address, any other identifier information, and investigative information supporting known or suspected narcotics trafficking activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

FY 1989 National Defense Authorization Act, Public Law 100–456; National Drug Control Strategy, January 1, 1990; Secretary of Defense Letter, January 6, 1989, SUBJECT: Policy Guidelines for Implementation of FY 1989 Congressionally Mandated DoD Counterdrug Responsibilities; and, Executive Order 9397.

PURPOSE(S):

To establish a counter narcotics computer database to support DoD Components and Federal law enforcement agencies in identifying and apprehending persons involved in international trafficking of illegal drugs.

To carry out the DoD mission of detection and countering of the production, trafficking, and use of illegal drugs.

The Federal agencies identified will exchange investigative information contained in this database to carry out the counter narcotics mission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To law enforcement components of the Drug Enforcement Agency; Bureau of Alcohol, Tobacco, and Firearms; Federal Bureau of Investigation; Customs Service; U.S. Secret Service; and, U.S. Marshals, for investigation and apprehension of drug traffickers, smugglers, or others aiding activities of the illegal narcotics trade.

To law enforcement and drug interdiction task force units of the Coast Guard; Federal Aviation Administration; Immigration and Naturalization Service; Internal Revenue Service; and Department of Transportation for investigation of suspected narcotics trafficking activities.

To the El Paso Intelligence Center for processing and analysis of suspected trafficking activities.

The "Blanket Routine Uses" published at the beginning of the Joint Staff compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All files are stored on computer magnetic tapes or disks in a secure computer facility.

RETRIEVABILITY:

Computer files are retrieved by name or Social Security Number or any other identifying information.

SAFEGUARDS:

Access to the computer by authorized personnel is controlled by a login and password control system. In addition, all terminals capable of accessing the system are located in secure areas.

RETENTION AND DISPOSAL:

Tapes and disks constituting the main data file are retained for ten years, after which they are erased and overwritten, or destroyed.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Director, U.S. Southern Command Support Center, ATTN: SCJ6–C, 1401 Wilson Boulevard, Arlington, VA 22209–2306. Telephone (703) 522–6942.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records may contain information about themselves should address written inquiries to the Director, U.S. Southern Command Support Center, ATTN: SCJ6–C, 1401 Wilson Boulevard, Arlington, VA 22209–2306.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Director, U.S. Southern Command Support Center, ATTN: SCJ6–C, 1401 Wilson Boulevard, Arlington, VA 22209–2306.

CONTESTING RECORD PROCEDURES:

The Office of the Joint Staff rules for accessing records and for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction No. 81, "OSD Privacy Program"; 32 CFR part 286b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Bureau of Alcohol, Tobacco and Firearms; Coast Guard; Customs; Drug Enforcement Administration; Defense; Federal Aviation Administration; Federal Bureau of Investigation; Immigration and Naturalization Service; Internal Revenue Service; Justice; Secret Service; State; U.S. Marshals; and, El Paso Intelligence Center (EPIC).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(j)(2) as applicable. Intelligence and investigation portions of this system may be partially or totally subject to the general exemption.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553 (b) (1), (2), and (3), (c) and (e) and published in 32 CFR 286b.7. For additional information contact the system manager.

[FR Doc. 90–30290 Filed 12–26–90; 8:45 am]
BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: January 22, 1991.

Time: 1000–1100.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on Electromagnetic and Electrothermal Technologies will meet for the final report and discussion on the findings and conclusions concerning the report. This meeting will be closed to the public in accordance with section 552(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90–30204 Filed 12–26–90; 8:45 am]
BILLING CODE 3710–8–M

Defense Logistics Agency

Privacy Act of 1974; Addition of a Record System

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Notice of a new system of records.

SUMMARY: The Defense Logistics Agency proposes to add a new record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed action will be effective without further notice on January 28, 1991, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA–XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100. Telephone (703) 274–6234 or Autovon 284–6234.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** as follows:

50 FR 22897, May 29, 1985 (DoD Compilation, changes follow)
50 FR 51898, Dec. 20, 1985
51 FR 27443, July 31, 1986
51 FR 30104, Aug. 22, 1986
52 FR 35304, Sept. 18, 1987
52 FR 37495, Oct. 7, 1987

53 FR 04442, Feb. 16, 1988
53 FR 09965, Mar. 28, 1988
53 FR 22511, June 8, 1988
53 FR 26105, July 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 449937, Nov. 7, 1988
53 FR 48708, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21918, May 30, 1990 (DLA Address Directory)
55 FR 32284, Aug. 8, 1990
55 FR 32947, Aug. 13, 1990
55 FR 42755, Oct. 23, 1990

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on December 17, 1990, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals", dated December 12, 1985 (50 FR 52738, December 24, 1985).

Dated: December 21, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

§ 322.01 DMDC

SYSTEM NAME:

DoD Job Opportunity Bank Service.

SYSTEM LOCATION:

W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Defense military and civilian personnel and their spouses, who have applied for participation in the job placement program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of name, SSN, correspondence address, branch of service, date of birth, separation status, travel availability, U.S. citizenship, occupational interests, geographic location work preferences, pay grade, rank, last unit of assignment, educational levels, dates of military or civilian service, language skills, flying status, security clearances, civilian and military occupation codes, and self reported personal comments for the purpose of providing prospective employers with a centralized system for locating potential employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, 1143, 1144, 2358 and Executive Order 9397.

PURPOSE(S):

The purpose of this system is to facilitate the transition of military and civilian Defense personnel, and their spouses, to private industry and Federal employment in the event of a downsizing of the Department of Defense.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To private and public employers (including local and state employment agencies and outplacement agencies) in the employment process to use as notice of available individuals with interest in potential employment.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage.

RETRIEVABILITY:

Retrieved by Social Security Number or occupational or geographic preference.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subject of the record or their authorized representative. Access to personal information is further restricted by the use of passwords which are changed periodically.

RETENTION AND DISPOSAL:

Records are maintained on-line for one year and then are archived as an historical data base.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Director, Defense Manpower Data Center, 1600 N. Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 N. Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this record system should address written inquiries to the Director, Defense Manpower Data Center, 1600 N. Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

Written requests for information should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determination are contained in DLA Regulation 5400.21; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The Military Services, DoD Components, and from the subject individual via application into the program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90–30291 Filed 12–26–90; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–51–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 19, 1990

Take notice that CNG Transmission Corporation ("CNG"), on December 17, 1990, pursuant to section 4 of the Natural Gas Act ("NGA"), Part 154 and § 2.104 of the Commission's regulations, the provisions of the Settlement in CNG's Docket No. RP88–217, *et al.*, approved by the Commission by order issued October 8, 1989, section 12.10 of the General Terms and Conditions of CNG's FERC Gas Tariff and Order No. 528, files (6) copies of the following revised tariff sheets to Volume No. 1 of CNG's FERC Gas Tariff:

Second Revised Sheet No. 44

First Revised Sheet No. 205
Substitute Original Sheet No. 202

The proposed effective date for these tariff sheets is December 17, 1990.

The purpose of this filing is: (1) to comply with the Commission's Order No. 528 which requires pipelines to file revised allocation methods to recover take-or-pay costs and (2) to change CNG's tariff to reflect revised billings by one of CNG's pipeline suppliers.

Specifically, CNG is proposing to recover take-or-pay costs flowed to it by Tennessee Gas Pipeline Company in Docket No. RP91-29, *et al.* On December 12, 1990, the Commission at its open meeting accepted Tennessee's alternate filing, which will become effective on December 17, 1990, subject to refund. CNG is proposing to flow through these charges using an allocation method that tracks the allocation methodology accepted by the Commission in the Tennessee proceeding.

CNG states that copies of the filing were served upon CNG's customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before December 28, 1990. 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. Persons that are already parties to this proceeding or have filed a motion to intervene in 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. 90-30230 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

December 19, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on December 17, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) Third Revised Sheet No. 44 to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective January 1, 1991.

Kentucky West states the revised tariff sheet amends its Gas Research Institute (GRI) funding charge to place in effect on January 1, 1991, the new Gas Research Institute funding unit of $.0146 per MCF as approved by the FERC in Opinion No. 355, issued on October 1, 1990, under Docket No. RP90-120-000.

Kentucky West states that, by its filing, or any request or statement made therein, it does not waive any rights to collect amounts, nor the right to collect carrying charges applicable thereto, to which it is entitled pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued on March 6, 1986, in Kentucky West Virginia Gas Co. v. FERC, 780 F.2d 1231 (5th Cir. 1986), or to which it becomes entitled pursuant to any other judicial and/or administrative decisions.

Kentucky West states that a copy of its filing has been served upon each 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 North Capitol Street, N.E., Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure.

All such motions or protests should be filed on or before December 28, 1990. 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 Cashell,

Secretary.

[FR Doc. 90-30227 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-55-000]

K N Energy, Inc.; Request for Waiver

December 19, 1990.

Take notice that on December 17, 1990, K N Energy, Inc. (K N) filed a Request for Waiver of Section 19 of its FERC Gas Tariff, Original Volume No. 1-B, and the related Commission Regulations in order that K N may recover through its Purchased Gas Adjustment Clause certain 858 conversion costs that it will incur with respect to conversion from firm sales to firm transportation on Northern Natural Gas Company (Northern Natural). K N states that pursuant to the terms of Northern Natural's interim gas inventory charge order, K N intends to exercise a one-time right to convert to transportation 100% of its firm sales contract demand under Northern Natural's Rate Schedules SS-1 and PL-1. K N requests that the charges that it incurs related to this converted sales contract be recovered through its PGA mechanism. K N requests waiver for a temporary period until its Service Agreement with Northern Natural expires on October 27, 1991.

K N states that copies of the filing were served upon K N's jurisdictional customers and interested public bodies.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before December 27, 1990. 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. 90-30232 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

Moss Bluff Gas Storage Systems; Petition for Adjustment

[Docket No. SA91-4-000]

December 19, 1990.

Take notice that on December 7, 1990, Moss Bluff Gas Storage Systems (Moss Bluff) filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Rule 1104 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1104, a petition for adjustment from section 284.123(b)(1)(ii) of the Commission's regulations. Moss Bluff states that it will seek to obtain from the Railroad Commission of Texas (Railroad Commission) a determination that intrastate storage, transportation and exchange rates are not in excess of cost-based rates and therefore may be charged for comparable services performed pursuant to section 311 of the NGPA.

In support of this petition Moss Bluff states that it is a gas utility subject to the jurisdiction of the Railroad Commission. Moss Bluff currently

provides intrastate storage, transportation and exchange services to customers located wholly within the State of Texas. Moss Bluff's tariff for such services is on file with the Railroad Commission as Tariff No.TN–2992–TT–1. Moss Bluff states that it intends to perform comparable storage and transportation services for interstate pipelines and local distribution companies served by interstate pipelines pursuant to section 311(a)(2) of the NGPA. The section 311 services to be provided by Moss Bluff will be performed on behalf of eligible interstate pipeline companies and/or local distribution companies served by interstate pipeline companies at proposed rates identical to those now being charged intrastate customers of Moss Bluff.

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of Subpart K. Motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–30231 Filed 12–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–57–000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

December 19, 1990.

Take notice that on December 17, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Second Revised Sheet No. 13

On December 14, 1990, Northwest filed its Annual Report and Cost-of-Service Study to establish a revised Facility Charge and an Amortizing Adjustment relating to Rate Schedule T–1. The December 14 proposal was prepared in accordance with the provisions of Northwest's December 6, 1989 Amended Compliance Filing (RP88–47 *et al*) which was accepted by the Commission on December 19, 1989.

Northwest requests waiver of the Commission's regulations to permit an effective date of February 1, 1991. Northwest states that a copy of this filing is being mailed to all jurisdictional customers and affected state commissions.

Any person desiring to be heard or 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 of Practice and Procedure. All such motions or protests should be filed on or before December 28, 1990. 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. 90–30221 Filed 12–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP88–651–005]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

December 19, 1990.

Take notice that on December 6, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the tariff sheets listed below to comply with the directives set forth in the Federal Energy Regulatory Commission order issued December 4, 1990 in the above docket.

Second Revised Volume No. 1

First Revised Sheet No. 12
First Revised Sheet No. 82
First Revised Sheet No. 83

First Revised Volume No. 1–A

First Revised Sheet No. 314
First Revised Sheet No. 315

The purpose of this filing is to revise several tariff sheets relating to open-access storage service (Rate Schedules SGS–2F and SGS–2I) to be offered at the Jackson Prairie Storage Project ("Jackson Prairie").

First Revised Sheet No. 12 is filed to reduce the Rate Schedule SGS–2F and Rate Schedule SGS–2I withdrawal charge from 6.34¢ per MMBtu to 4.51¢ per MMBtu. First Revised Sheet Nos. 82 and 83 are filed to reinstate the Rate Schedule SGS–2F capacity allocation methodology, consistent with the methodology tendered on April 13, 1990 in Docket No. CP88–651–002. Such capacity shall be allocated based upon customer nominations that are received during a ten day open season which commences December 7, 1990. First Revised Sheet Nos. 314 and 315 are tendered herein to eliminate any language from Northwest's tariff that provides for seasonally differentiated transportation contract demand levels for transportation to and from Jackson Prairie.

Northwest states that a copy of this filing is being served upon Northwest's jurisdictional customer list and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before December 27, 1990. 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. 90–30228 Filed 12–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–53–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 19, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on December 17, 1990, tendered for filing substitute primary and alternate tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

The subject tariff sheets bear an issue date of December 17, 1990, and a proposed effective date of January 17, 1991.

Panhandle states that by this filing, it proposes to substitute tariff sheets for those which the Commission permitted to become effective for the collection of a portion of the costs of buying down or buying out take-or-pay exposure, reforming gas purchase contracts and settling litigation relating to take-or-pay matters. Panhandle states that in each of Docket No. RP88–241–000 Docket No. RP89–9–000, Docket No. RP89–134–000 and Docket No. RP90–178–000, Panhandle filed tariff sheets which were designed to recover from its firm sales customers 50% of take-or-pay settlement, buyout, buydown, and contract reformation costs, utilizing a

deficiency based methodology which was selected and approved by the Commission. Panhandle also states that recent events, most particularly the issuance of Order No. 528 by the Commission have compelled Panhandle to make the adjustments included in this filing.

Panhandle states that by the instant tariff filing, it proposes in its primary tariff sheets to adjust the portion of the take-or-pay settlement and contract reformation costs which it will absorb by reducing that amount to 45% from 50% and to reduce the amount of such costs which it proposes to recover by means of a fixed surcharge and to recover the balance, or 10%, in a volumetric surcharge. According to Panhandle the principal amount to be recovered via the fixed surcharge is $180.6 million as compared to the principal amount which Panhandle previously had sought to recover via direct bill in its filings in Docket No. RP88-241-000, Docket No. RP89-9-000, Docket No. RP89-134-000 and Docket No. RP90-178-000 pursuant to the equitable sharing mechanism under Order No. 500, *et seq.* and the variety of Policy Statements and individual pronouncements which the Commission has made in connection with pipeline filings. Panhandle states that the primary sheets also propose: (1) To substitute for the allocation methodology previously required and approved by the Commission a different methodology; (2) to suspend billings and collections under the former methods upon the approval of the methods set forth herein; and (3) to credit amounts heretofore collected against obligations set forth herein.

Panhandle states that in the alternative, if the primary tariff sheets are not accepted by the Commission, it proposes: (1) No adjustment to the portion of the take-or-pay settlement and contract reformation costs which it will absorb; (2) to recover the principal amount of $200.7 million via fixed surcharges, the same principal amount which Panhandle previously had sought to recover via fixed surcharges in its filings in Docket No. RP88-241-000, Docket No. RP89-9-000, Docket No. RP89-134-000 and Docket No. RP90-178-000 pursuant to the equitable sharing mechanisms under Order No. 500, *et seq.* and the variety of Policy Statements and individual pronouncements which the Commission has made in connection with pipeline filings; (3) to substitute for the allocation methodology previously required and approved by the Commission a different methodology; (4) to suspend billings and collections under the former methods upon the approval of the methods set forth herein; and (5) to credit amounts heretofore collected against obligations set forth herein.

Panhandle states that a copy of the filing has been set to all affected sales and transportation customers, affected State Commissions and all parties on the service lists in the proceedings in Docket Nos. RP88-262-000, RP88-241-000, RP89-9-000, RP89-134-000 and RP90-178-000.

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, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 27, 1990. 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. 90-30222 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-52-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 19, 1990.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on December 17, 1990, tendered for filing substitute tariff sheets to its FERC Gas Tariff, Original Volume No. 1. Panhandle proposes a January 17, 1991 effective date.

Panhandle states that by this filing, it proposes to implement tariff provisions which reallocate the costs of take-or-pay settlement, buy down and buy out costs of its upstream pipeline supplier, Trunkline Gas Company (Trunkline), on an as-billed basis, to reflect the methodology utilized by Trunkline in its contemporaneous filing in Docket No. RP91-54-000. Panhandle states that Panhandle's tariff provisions filed in Docket No. RP88-240-000, *et al.* and *et seq.* and the orders of the Commission underlying them require that such charges of Panhandle reflect adjustments in Trunkline's charges as they may change from time to time by virtue of Trunkline's supplemental filings, and by operation of applicable orders of the Commission or the courts. Panhandle states that the instant filing is required so that Panhandle's tariff may continue to appropriately reflect the flow-through of Trunkline's charges.

Panhandle states that in its take-or-pay recovery filing in Docket No. RP91-54-000 Trunkline proposes to recover 50% of its take-or-pay settlement, buy down and buy out costs from its customers, including Panhandle, effective January 17, 1991 in one lump sum, or in the event a customer so elects to recover the same with carrying charges over a 36-month amortization period. Panhandle states that it seeks herein to recover these same sums billed by Trunkline, to be allocated among its customers on the same basis as is set forth in Trunkline's December 17, 1990 take-or-pay recovery filing, on an as-billed basis, offset by any amounts Trunkline credits or refunds to Panhandle pursuant thereto.

Panhandle states that copies of the filing were served upon all affected sales and transportation customers and affected state commissions and all persons on the service lists in the proceedings in Docket Nos. RP88-262-000, RP88-240-000, RP89-10-000, RP89-125-000 and TM90-14-28-000.

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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 27, 1990. 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. 90-30224 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-119-006 and RP88-67-042]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 19, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 17, 1990 in compliance with the Commission's orders issued November 30, 1990 in Docket Nos. RP90-119-002, *et al.*, and

RP90–119–004, submitted for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the tariff sheets listed on appendix A of the filing.

On October 31, 1990 Texas Eastern filed revised tariff sheets as required by the June 29, 1990 suspension order in Docket No. RP90–119 (Suspension Order) and its Motion to make such tariff sheets (Motion Filing) effective December 1, 1990. By order issued November 30, 1990 in Docket No. RP90–119–004 (Motion Order) the Commission accepted for filing, subject to certain conditions and subject to refund, the proposed alternate tariff sheets filed on October 31, 1990. On November 30, 1990 the Commission also issued an order in Docket Nos. RP90–119–002, *et al.*, (Rehearing Order) on rehearing of the Suspension Order. The Motion Order and Rehearing Order require Texas Eastern to make changes to the filed tariff sheets.

The proposed effective date of the tariff sheets listed on appendix A of the filing is December 1, 1990.

Texas Eastern states that copies of the filing have been served upon Texas Eastern's jurisdictional sales customers and interested state commissions. Texas Eastern also states that copies of this filing are also being mailed to all parties in Docket No. RP90–119, *et al.*, and all Rate Schedules FT–1 and IT–1 customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests shall be filed on or before December 27, 1990. 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. 90–30225 Filed 12–26–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–54–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

December 19, 1990.

Take notice that Trunkline Gas Company (Trunkline) on December 17, 1990, tendered for filing substitute tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

The subject tariff sheets bear an issue date of December 17, 1990, and a proposed effective date of January 17, 1991.

Trunkline states that by this filing, it proposes to substitute tariff sheets for those which the Commission permitted to become effective for the collection of a portion of the costs of buying down or buying out take-or-pay exposure, reforming gas purchase contracts and settling litigation relating to take-or-purchase contracts and settling litigation relating to take-or-pay matters. Trunkline states that in each of Docket No. RP88–239–000, Docket No. RP89–11–000, Docket No. RP89–129–000 and Docket No. RP90–158–000, Trunkline filed tariff sheets which were designed to recover from its firm sales customers 50% of take-or-pay settlement, buyout, buydown, and contract reformation costs, utilizing a deficiency based methodology which was selected and approved by the Commission. Trunkline also states that recent events, most particularly the issuance of Order No. 528 by the Commission have compelled Trunkline to make the adjustments included in this filing.

Trunkline states that by the instant tariff filing, it proposes: (1) To recover the same portion of certain take-or-pay settlement and contract reformation costs which it previously had sought to recover in its filing in Docket No. RP88–239–000, Docket No. RP89–11–000, Docket No. RP89–129–000 and Docket No. RP90–158–000 pursuant to the equitable sharing mechanisms under Order No. 500, *et seq.* and the variety of Policy Statements and individual pronouncements which the Commission has made in connection with pipeline filings; (2) to substitute a different allocation methodology for the one previously required and approved by the Commission; (3) to suspend billings and collections under the former methods upon the approval of the methods set forth herein; and (4) to credit amounts heretofore collected against obligations set forth herein.

Trunkline states that a copy of the filing was served upon all affected sales and transportation customers, affected State Commissions and all parties on the service lists in the proceedings in Docket Nos. RP89–160–000, RP88–239–000, RP89–11–000, RP89–129–000 and RP90–158–000.

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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 27, 1990. 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. 90–30226 Filed 12–26–90; 8:45 am]

BILLING 6717–01–M

[Docket No. RP91–56–000]

Williston Basin Interstate Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 19, 1990.

Take notice that on December 17, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1–A. Original Volume No. 1–B and Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that the revised tariff sheets are being filed under § 2.104 of the Commission's Regulations and the Commission's Order No. 528 issued November 1, 1990 in Docket Nos. RM91–2–000, *et al.*, to implement recovery of $364,522 of additional buyout/buydown costs. Under the filing, Williston Basin is proposing to absorb twenty-five percent of such costs, and to recover twenty-five percent of the costs through a fixed monthly surcharge and fifty percent of such costs through a commodity rate surcharge increase of .271¢ per dkt, all applicable to its Rate Schedules G–1 and SGS–1 sales customers served under First Revised Volume No. 1 of its FERC Gas Tariff.

Williston Basin states that it determined its individual customer fixed monthly surcharge amounts using an allocation based on sales Maximum Daily Quantities (MDQ). Williston Basin requests that the Commission accept certain alternate tariff sheets which it also submitted, and which reflect a commodity rate surcharge based on total sales and transportation service throughput, to the extent that the Commission does not allow the sales only based commodity rate surcharge.

Williston Basin has requested that the Commission accept this filing to become effective January 1, 1991.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 28, 1990. 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 persons wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-30223 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-2-008]

Williston Basin Interstate Pipeline Co.; Compliance Filing

December 19, 1990.

Take notice that on December 14, Williston Basin Interstate Pipeline Company (Williston Basin), suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing under protest certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that the revised tariff sheets were filed under protest in compliance with the Commission's "Order Granting Rehearing in Part" issued November 23, 1990 in Docket No. RP90-2-001 and cover the period from April 3, 1990 through January 1, 1991, as more fully described in the filing. Williston Basin states that it intends to file a timely request for rehearing of the November 23, 1990 Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before December 27, 1990. 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. 90-30229 Filed 12-26-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

National Petroleum Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Petroleum Council (NPC).

Date and Time: Wednesday, January 23, 1991, at 9 a.m.

Place: The Madison Hotel, Dolley Madison Ballroom, 15th & M Streets, NW., Washington, DC.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585, Telephone: 202/586-4695.

Purpose: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

Tentative Agenda:

—Call to order by Lodwrick M. Cook, Chairman, NPC.
—Remarks by Admiral James D. Watkins, USN (Ret), Secretary of Energy.
—Consideration of Reports of the NPC Committee on Emergency Preparedness.
—Progress Report of the NPC Committee on Refining.
—Progress Report of the NPC Committee on Natural Gas.
—Consideration of administrative matters.
—Discussion of any other business properly brought before the NPC.
—Public comment (10-minute rule).
—Adjournment.

Public Participation: The meeting is open to the public. The chairperson of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading room, 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 December 21, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90-30344 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-81-NG]

Access Energy Corp.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Access Energy Corporation blanket authorization to import up to a total of 296 Bcf of natural gas over a two-year period beginning on the date of the first import.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-30345 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-89-NG]

IGI Resources, Inc.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting IGI Resources, Inc. authority to import natural gas from Canada over ten years through October 31, 2000, at a daily rate of up to 5,000 Mcf in the first two years, up to 10,000 Mcf in the next three years, and up to 15,000 Mcf in all years thereafter. The volumes imported would be purchased from Mobil Oil Canada and would enter the United States near Sumas, Washington using the pipeline facilities of Northwest Pipeline Corporation.

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 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-30346 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 89-49-NG]

Megan-Racine Associates, Inc.; Order Granting Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting long-term authorization to import Canadian natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Megan-Racine Associates, Inc. authorization to import up to 11,700 Mcf per day of Canadian natural gas over a twenty-year period to fuel its new 49 MW cogeneration plant in Canton, New York.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

Issued in Washington, DC, on December 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-30347 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-86-NG]

Neste Trading (USA), Inc.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Neste Trading (USA), Inc. (Neste), blanket authorization to import up to 50 Bcf of Canadian natural gas over a two-year period beginning on the date of the first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

Issued in Washington, DC, on December 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-30348 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-90-NG]

Northern Minnesota Utilities; Order Granting Authorization To Import and Export Canadian Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export Canadian natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northern Minnesota Utilities authorization to import from Canada up to 66.43 Bcf of natural gas and export and re-import up to 66.43 Bcf of this gas over a two-year term beginning February 15, 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 for Federal holidays.

Issued in Washington, DC, on December 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-30349 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-53-NG]

Northern Natural Gas Company, Division of Enron Corp.; Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order authorizing the importation of 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 Northern Natural Gas Company, Division of Enron Corp. (Northern) authorization to import up to 100,000 Mcf per day of Canadian natural gas beginning with the effective date of the order through October 31, 2001. The gas would be imported for use as part of Northern's system supply and would replace gas purchased from Consolidated Natural Gas Limited under a contract which Northern asserts expired on October 31, 1989.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 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, December 20, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-30350 Filed 12-26-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-107-NG]

Unigas Energy, Inc.; Application for Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas and liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on December 6, 1990, by Unigas Energy, Inc. (Unigas) requesting blanket authorization to import natural gas, including liquefied natural gas (LNG), for short-term sales to customers in the United States. Authorization is requested to import from Canada, as well as other countries, up to 290 Bcf of natural gas, including LNG, over a two-year period beginning on the date of first delivery after April 7, 1991, the date Unigas' present authority expires.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention , as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., January 28, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–9478.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–6667.

SUPPLEMENTARY INFORMATION: Unigas, a Delaware corporation with its principal place of business in Traverse City, Michigan, is currently authorized by DOE/FE Opinion and Order 222 (Order 222) (1 FE 70,754), issued January 28, 1989, in FE Docket No. 87–56–NG, to import up to 290 Bcf of natural gas from Canada over a two-year term that began April 8, 1989. Unigas requests authority to continue to import competitively priced Canadian natural gas, as well as gas from other countries, for sale on a short-term or spot basis to a wide variety of markets in the United States, including local distribution companies, and commercial and industrial end-users. Unigas would be acting as a marketer of natural gas for its own account as well as on behalf of U.S. purchasers and foreign suppliers. The specific terms of each import and sale would continue to be responsive to competitive market forces in the United States domestic gas market.

Unigas would use existing facilities to import the gas. Unigas would continue to file reports with FE within 30 days after the end of each calendar quarter giving the details of individual import transactions.

The decision on the application for import authority will be made consistent with 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 that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the requested import authority. The applicant asserts that the proposed imports will make competitively priced gas available to U.S. markets while the short-term nature of the transactions will minimize the potential for undue long-term dependence on foreign sources of energy. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, Motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional proceedings will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR sec. 590.316.

A copy of Unigas' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, December 20, 1990.

Clifford P. Tomaszewski,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–30351 Filed 12–26–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3872-9]

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 describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels—Information Requirements (Subpart AA and AAa). (ICR #1060.06; OMB #2060-0038). This is a reinstatement of a previously approved collection.

Abstract: Owners or operators of the affected facilities must notify EPA of construction, modifications, startups, shutdowns, malfunctions, and date and results of initial performance test. Owners or operators must install a continuous monitoring device to measure opacity. They must keep records of flow rate and pressure, and they must keep daily records of time and duration of each tap and charge. They must also submit quarterly reports of excess emissions, and semiannual reports of fan motor amperage and flow rate.

Burden Statement: The burden for this collection of information is estimated to average 25.3 hours per response for reporting, including the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information. The recordkeeping burden is 310.5 hours annually per respondent.

Respondents: Owners and operators of steel plants operating electric arc furnaces, and argon-oxygen decarburization vessels.

Estimated No. of Respondents: 48.

Estimated No. of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 17,333 hours.

Frequency of Collection: quarterly or semiannually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460,
and
Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

OMB Response to Agency PRA Clearance Request

EPA ICR #1432.05; Baseline Request on the Production, Transformation, Import and Export of Ozone-Depleting Substances Controlled by the London Amendments to the Montreal Protocol; OMB #2060-0170; expires 02/28/91. This expiration date does not apply to other data collected under the above OMB control number. Also, this approval is based on the understanding that EPA will not ask questions about the "uses" for chemicals produced from controlled substance feedstocks.

Dated: December 19, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-30298 Filed 12-26-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-38941]

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 describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticide and Toxic Substances

Title: Polychlorinated Biphenyls (PCBs): Exclusions, Exemptions and Use Authorizations (EPA ICR # 1001.04; OMB # 2070-0008). This ICR requests an extension of an existing clearance with no change proposed.

Abstract: Under the Toxic Substances Control Act (TSCA), certain chemical manufacturers may apply for an exclusion from the general prohibition against manufacturing polychlorinated biphenyls (PCBs). These are manufacturers who inadvertently generate PCBs as trace byproducts or impurities in the course of manufacturing essential chemical products. To apply for the exclusion, such manufacturers must submit a letter to EPA that (1) Identifies the manufacturing processes that generate PCBs in products at levels above 2 part per million; (2) certifies compliance with certain conditions on PCB release; and (3) states the basis for the certification. These manufacturers must also report more specific data on their manufacturing processes during periods of unusually high generation of PCBs. They must also maintain records of the monitoring data (or other analyses) on which they based their determination of compliance, as well as copies of the signed certification of compliance. EPA uses the data to verify that these manufacturers indeed generate only trace quantities of PCBs in their products and thus do not present an unreasonable risk to health or environment. EPA also uses the data to identify sites for compliance inspections.

Burden Statement: Public reporting burden for this collection of information is estimated to average 25 hours per response for first-time respondents, including the time for reviewing instructions, searching existing data sources, gathering an maintaining the data needed, and completing and reviewing the actual submission. The annual burden for each previous respondent is estimated to average 5 hours, and consists solely of time spent maintaining the data.

Respondents: Chemical Manufacturers that generate PCBs or Trace Byproducts.

Estimated Number of Respondents: 165.

Estimated Total Annual Burden on Respondents: 925.

Frequency of Collection: On occasion.

Send comments requesting the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460,
and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: December 19, 1990.

Paul Lapsley,

Director Regulatory Management Division.

[FR Doc. 90-30299 Filed 12-26-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of review: Revision of a currently approved collection.

Title: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks).

Form number: FFIEC 031, 032, 033, 034.

OMB number: 3064-0052.

Expiration date of current OMB clearance: February 28, 1993.

Frequency of response: Quarterly.

Respondents: Insured state nonmember commercial and savings banks.

Number of Respondents: 7,847.

Number of responses per respondent: 4.

Total annual responses: 31,388.

Average number of hours per response: 22.94.

Total annual burden hours: 720,139.

OMB reviewer: Gary Waxman, (202) 395-7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FDIC contact: Steven F. Hanft, (202) 898-3907, Assistant Executive Secretary, Room F-400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before January 15, 1991.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is submitting for OMB review changes to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) filed quarterly by insured state nonmember commercial and savings banks. In general, the revisions to the Call Reports that are the subject of this request are primarily intended to improve the ability of the three Federal banking agencies (the Office of the Comptroller of the Currency, Federal Reserve Board and Federal Deposit Insurance Corporation) to monitor real estate lending and related exposures and to track other indicators of asset quality, particularly in the area of highly-leveraged transactions (HLTs), both at individual banks and throughout the banking system as a whole. Other changes are designed to enhance the agencies' understanding of banks' sources of noninterest income and expense, to permit more timely estimation of insured deposits within the banking system, and to provide data for use in economic analyses. More specifically, these changes are as follows and would apply to all four sets of report forms (FFIEC 031, 032, 033, and 034) unless otherwise indicated:

(1) Real Estate Lending and Related Exposures

(a) In the schedules for past due and nonaccrual loans and for loan charge-offs and recoveries (Schedules RC-N and RI-B, part I, respectively), memorandum items would be added to provide a breakdown of real estate loans by loan category.

(b) A memorandum item for loans not secured by real estate that were made to finance commercial real estate, construction, and land development would be added to the loan schedule (Schedule RC-C), the past due and nonaccrual schedule (Schedule RC-N), and the charge-offs and recoveries schedule (Schedule RI-B, part I) and an item for unused commitments to make such loans would be added to the off-balance sheet schedule (Schedule RC-L).

(c) An existing item on real estate investments in the memoranda schedule (Schedule RC-M) would be replaced with items splitting (i) "Other real estate owned" into real estate investments and foreclosed and similar real estate and (ii) "investments in unconsolidated subsidiaries and associated companies" into real estate investments and all other investments.

(d) A new items would be added to the other assets schedule (Schedule RC-F) so that excess residential mortgage servicing fees receivable are reported separately from "All other assets."

(e) In the loan schedule (Schedule RC-C), the existing item for closed-end residential mortgages would be split into items for first lien mortgages and junior lien mortgages.

(f) A new memorandum item would be added to the loan schedule (Schedule RC-C) for closed-end first lien residential mortgages with adjustable rates.

(2) Other Asset Quality Information

(a) A new schedule (Schedule RC-T) on highly-leveraged transactions would be introduced. More detailed data would be collected from larger banks on the FFIEC 031 and 032 versions of the Call Report forms while only limited data would be collected from smaller banks on the FFIEC 033 and 034 report forms. The data reported in this new schedule would be accorded confidential treatment unless and until action were taken by the FFIEC or the banking agencies to make these data available to the public.

(b) On the FFIEC 031 and 032 report forms, the categories of loans reported in the past due and nonaccrual loan schedule (Schedule RC-N) would be conformed to the more detailed set of loan categories in the charge-offs and recoveries schedule (Schedule RI-B, part I)

(c) A line would be added to the past due and nonaccrual schedule (Schedule RC-N) to cover debt securities and similar assets that are past due or in nonaccrual status.

(d) A memorandum item would be added to the securities schedule (Schedule RC-B) for debt securities that have undergone a troubled debt restructuring.

(e) A new item would be added to the securities schedule (Schedule RC-B) so that holdings of privately-issued collateralized mortgage obligations are reported separately from "All other (domestic) debt securities."

(f) Memorandum items would be added to the securities and loan schedules (Schedule RC-B and RC-C, respectively) in which banks would report the amount of securities held for sale and loans held for sale that are included in total securities and total loans.

(g) A new item would be added to the memoranda schedule (Schedule RC-M) for the total assets of the unconsolidated subsidiaries and associated companies in which the bank has invested.

(3) Sources of Other Noninterest Income and Expense

(a) A new item would be added to the income statement (Schedule RC–RI) so that the amount of fee income included in "Other noninterest income" is separately reported.

(b) In the explanations schedule (Schedule RI–E), the threshold for itemizing and describing amounts included in "Other noninterest income" and "Other noninterest expense" would be lowered from 25 percent to ten percent. To facilitate analysis and comparisons of amounts in excess of the threshold, printed captions would be added for net gains/losses on (i) Other real estate owned (ii) sales of loans, and (iii) sales of premises and fixed assets. In addition, the requirement that taxes based on gross revenues and credits from capitalizing imputed interest on internally financed construction be itemized in this schedule regardless of amount would be discontinued.

(4) Miscellaneous Changes

(a) In the two memorandum items for brokered retail deposits (i.e., fully insured brokered deposits) in the deposit schedule (Schedule RC–E), the reporting of brokered retail deposits of exactly $100,000 would be switched from the first memorandum item to the second.

(b) In the deposit insurance assessments schedule (Schedule RC–O), the frequency with which banks report the amount of their deposit accounts of $100,000 or less and the number and amount of their deposit accounts of more than $100,000 would be changed from annually as of June 30 to quarterly.

(c) On the FFIEC 031 and 032 report forms, memorandum items would be added to the off-balance sheet schedule (Schedule RC–L) on three types of consumer installment loans that have been securitized and sold (with servicing retained). This information would be collected annually as of September 30.

(d) Two items on reserve balances passed through to the Federal Reserve would be deleted from the memoranda schedule (Schedule RC–M).

The effective date for these reporting changes, if approved, will be the March 31, 1991, report date, except for the new memoranda items on securitized consumer installment loans sold being added to Schedule RC–L on the FFIEC 031 and 032 forms which will first be collected as of September 30, 1991. Nonetheless, as is customary for Call Report changes, banks will be advised that they may provide reasonable estimates for any of the new items in their March 31, 1991, Call Reports for which the requested information is not readily available.

Dated: December 21, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–30275 Filed 12–26–90; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–885–DR]

Indiana; Amendment to Notice of a Major Disaster Declaration

AGENCY: FFederal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana (FEMA–885–DR), dated December 6, 1990, and related determinations.

DATED: December 14, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice: Notice is hereby given that the incident period for this disaster is closed effective December 14, 1990.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 90–30303 Filed 12–27–90; 8:45 am]

BILLING CODE 6718–02–M

Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. Law 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Date of Meeting: February 4–5, 1991.

Place: National Emergency Training Center, H Bldg., 3rd Floor Conference Room, Emmitsburg, MD 21727.

Time:

February 4—8:30 a.m. to 5 p.m.
February 5—8:30 a.m. to Agenda Completion.

Proposed Agenda: Old Business, New Business, Classroom Visitation, Tour/Inspection of Facilities.

The meeting will be open to the public with seating available on a first-come, first-serve basis. Members of the general public who plan to attend the quarterly meeting should contact the Office of the Superintendent, National Fire Academy, Office of Training, 16825 South Avenue, Emmitsbury, Maryland, 21727 (telephone number, 301–447–1123) on or before January 28, 1991.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: December 12, 1990.

Laura B. Buchbinder,

Acting Director, Office of Training.

[FR Doc. 90–30304 Filed 12–26–90; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice that on December 13, 1990, the following agreements were filed with the Commission pursuant to section 5(d) of the Shipping Act of 1984 and were considered effective that date to the extent that they constitute assessment agreements as described in section 3(3) of the Shipping Act of 1984.

Agreement No.: 224–200063–005.

Title: NYSA–ILA Tonnage Assessment Agreement.

Parties: New York Shipping Association, Inc. ("NYSA") International Longshoremen's Association, AFL–CIO ("ILA").

Synopsis: The Agreement extends the existing NYSA–ILA. Tonnage Assessment Agreement through January 15, 1991.

Agreement No.: 224–000086–006.

Title: Extension of the Memorandum of Settlement of the Port of Greater New York and New Jersey Local Conditions.

Parties: New York Shipping Association, Inc. ("NYSA") International Longshoremen's Association, AFL–CIO ("ILA").

Synopsis: The Agreement extends the existing NYSA–ILA Memorandum of Settlement of the Port of Greater New York and New Jersey Local Conditions through January 15, 1991.

Dated: December 20, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-30210 Filed 12-26-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Port of Oakland/ Hanjin Shipping Co., Ltd.

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.: 224-010631-005.

Title: Port of Oakland/Hanjin Shipping Company, Ltd. Terminal Agreement.

Parties: Port of Oakland, Hanjin Shipping Company, Ltd.

Synopsis: The Agreement amends the parties basic agreement to extend the term of the agreement to July 1, 1991 subject to earlier termination in event the parties enter into a new agreement covering use of another facility.

Agreement No.: 224-200268-001.

Title: City of Los Angeles/Stevedoring Services of America Terminal Agreement.

Parties: City of Los Angeles (City), Stevedoring Services of America (SSA).

Synopsis: The Agreement amends the parties' basic agreement to provide for: (1) 10 acres to be added to the SSA premises; (2) SSA to provide Yang Ming Marine Transport, Ltd. (YML) an operating area within SSA's premises to handle YML's cargo; (3) SSA to count $2.4 million of YML's charges toward SSA reaching its minimum annual guarantee and revenue sharing breakpoints.

Dated: December 20, 1990.

By order of the Federal Maritime Commission.

[FR Doc. 90-30211 Filed 12-26-90; 8:45am]

BILLING CODE 6730-01-M

[Docket No. 90-38]

Sea-Land Service, Inc. v. International Textile Traders, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Sea-Land Service, Inc. ("Complainant") against International Textile Traders, Inc. ("Respondent") was served December 20, 1990. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing and refusing to pay ocean freight and other charges lawfully assessed pursuant to Complainant's applicable tariff for three shipments of cutwork and accessories for the assembly of men's pants and girl's jeans from Florida to Guatemala between September 6 and October 24, 1989.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by December 20, 1991, and the final decision of the Commission shall be issued by April 21, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90-30212 Filed 12-26-90; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 90-36]

Sea-Land Service, Inc. v. Cosmetic Concepts, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Sea-Land Service, Inc. ("Complainant") against Cosmetic Concepts, Inc. ("Respondent") was served December 20, 1990. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing and refusing to pay ocean freight and other charges lawfully assessed pursuant to Complainant's applicable tariff for a shipment of raw materials from Florida to Kingston, Jamaica on June 2, 1990.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding officer in this preceeding shall be issued by December 20, 1991, and the final decision of the Commission shall be issued by April 21, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90-30213 Filed 12-26-90; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 90-37]

Sea-Land Service, Inc. v. Landry Brothers Pepper Products; Filing of Complaint and Assignment

Notice is given that a complaint filed by Sea-Land Service, Ind. ("Complainant") against Landry Brothers Pepper Products ("Respondent") was served December 20, 1990. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing and refusing to pay ocean freight and other charges lawfully assessed pursuant to Complainant's applicable tariff for two shipments of bags of hot pepper mash from Costa Rica to New Orleans between November 9 and 16, 1989.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that oral hearing

and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by December 20, 1991, and the final decision of the Commission shall be issued by April 21, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90-30214 Filed 12-26-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

[Dkt. C-3315]

Roche Holding Ltd., 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 requires, among other things, Roche Holding, Ltd., a Swiss pharmaceutical company, and related American corporations to divest either Genentech's interest in GLC Associates, a partnership between Genentech and Lubrizol, Inc., or GLC's vitamin C assets. Roche also is required to divest its human growth hormone releasing factor business. Both divestitures are to be effected to Commission-approved acquirers within one year after the effective date of the order; otherwise the Commission may appoint a trustee to make the divestitures.

DATES: Complaint and Order issued November 28, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Howard Morse, FTC/S-2308, Washington, DC 20580, (202) 326-2949.

SUPPLEMENTARY INFORMATION: On Monday, September 17, 1990, there was published in the Federal Register, 55 FR 38153, a proposed consent agreement with analysis In the Matter of Roche Holding Ltd., 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.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, 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. 90-30352 Filed 12-26-90; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, the Decision and Order, and statements are available from the Commission s Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Dkt. C-3313]

United States Sales Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of the Textile Fiber Products Identification Act, and of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California mail order company from failing to disclose in future mail-order catalogs and promotional materials that the textile fiber products offered are processed or manufactured in the United States, imported, or both.

DATES: Complaint and Order issued November 21, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Robert Easton, FTC/S-4631, Washington, DC 20580. (202) 326-3029.

SUPPLEMENTARY INFORMATION: On Wednesday, August 15, 1990, there was published in the Federal Register, 55 FR 33380, a proposed consent agreement with analysis In the Matter of United States Sales Corporation, 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 the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceding.

[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.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70)

Donald S. Clark,

Secretary.

[FR Doc. 90-30353 Filed 12-26-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegation of Authority

Part A (Office of the Secretary), Chapter AE (Office of the Assistant Secretary for Planning and Evaluation) of the Statement of Organization, Functions and Delegation of Authority for the Department of Health and Human Services (last amended at 51 FR 230 on December 1, 1986) is amended. The following organizational changes are made in part to foster improved policy coordination among income assistance, employment and service programs, and help achieve several of the Secretary's program directions. The changes will enhance the functioning of this office and policy development across HHS.

The changes are as follows:

1. Amend Chapter AE by deleting the current section AE.10 in its entirety and replacing it with the following:

Section AE.10 Organization

The Office of the Assistant Secretary for Planning and Evaluation (OASPE) consists of the following components:

A. Immediate Office (IO).

B. Office of Program Systems (OPS).

(1) Division of Policy and Regulatory Analysis.

(2) Division of Planning and Policy Coordination.

(3) Division of Research, Evaluation and Special Analysis.

(4) Division of Technical and Computer Support.

C. Office of Health Policy (OHP).

(1) Division of Health Financing Policy.

(2) Division of Public Health Policy.

(3) Division of Health Economic Analysis and Research.

D. Office of Family, Community, and Long-Term Care Policy (OFCLCP).

(1) Division of Family and Community Policy.

(2) Division of Long-Term Care and Aging Policy.

E. Office of Human Services Policy (OHSP).

(1) Division of Income Security Policy

(2) Division of Children and Youth Policy.

(3) Division of Policy Research and Analysis.

2. Delete paragraphs d and e in their entirety, and replace with the following:

D. The *Office of Family, Community, and Long-Term Care Policy* is responsible for the development and coordination of Departmental policy to strengthen or safeguard the functioning of the family and community, and for the development and coordination of long-term care and aging policy. This responsibility includes policy planning and development, policy and budget analysis, review of regulations, formulation of legislation, and the conduct and coordination of research, evaluation, and data collection. In these matters, the Office works closely with all HHS Operating Divisions and agencies, as well as other Federal Departments and Agencies.

1. The *Division of Family and Community Policy Development* has crosscutting responsibility for the formulation of Department policy on the family and community. The Division is responsible for developing and maintaining a research and policy analysis agenda on the family and community, including: what contributes to family and community strengths and functioning; family and community integration and disintegration; how public policy and programs can strengthen or weaken families and communities; how public policy and programs can be designed to support family and community functioning; issues related to particular problems of minority and other disadvantaged groups; participation in the formulation of ethical and population policy and issues related to the care and nurturing of individuals and family members. Activities of the Division include policy coordination, development of policy options, policy planning, formulation of legislative, regulatory and budget proposals, economic analysis, program analysis, review of regulations—including legislative and regulatory assessments conducted pursuant to E.O. 12606 ("The Family"), conduct and oversight of research and evaluation, and information collection and dissemination.

2. The *Division of Long-Term Care and Aging Policy* is responsible for policy development related to the financing, organization and delivery of long-term care services to persons who, because of chronic illness or disability, require assistance with basic living activities. The long-term care population includes the impaired elderly, persons with mental retardation and other developmental disabilities and other persons with severe physical and/or mental impairments requiring human assistance over an extended period. The Division is the focal point for policy coordination and development, policy planning, formulation of legislative and budget proposals, economic analysis, program analysis, review of regulations, conduct of research and evaluation, and information collection and dissemination related to nursing homes, home health care, personal care and other home and community-based services, as well as Intermediate Care Facilities for the Mentally Retarded, community-based residential arrangements included board and care homes and other supportive services. In these matters, the Division works most closely with the Health Care Financing Administration, the Administration on Aging and the Public Health Service.

E. The *Office of Human Services Policy* is responsible for policy development—including policy planning, policy and budget analysis, review of regulations and formulation of legislation—and for the conduct and coordination of research and evaluation on issues relating to income assistance, income security, employment, and related human service programs. In particular, the office is responsible for policies concerning child development, welfare, retirement and disability assistance. In these matters, the office works closely with the Social Security Administration, the Family Support Administration, and the Office of Human Development Services.

1. The *Division of Income Security Policy* is responsible for policy coordination, long-range planning, budget and economic analysis, program analysis, review of regulations and reports on legislation, and information dissemination related to the Department's programs that provide cash assistance and social insurance benefits. In the cash assistance area, the principal programs examined are Aid to Families With Dependent Children, Supplemental Security Income, Child Support Enforcement, Low-Income Home Energy Assistance, Work Incentive program and refugee assistance. The Division performs the same functions in regard to programs outside the Department that affect employment and income support, such as the Earned Income Tax Credit, Food Stamps, housing assistance programs, and employment and training programs. In the social insurance area, the Old Age, Survivors and Disability Insurance programs are the principal social insurance programs examined. As with cash assistance, other programs of this and other Departments concerning income provision, old-age and disability (e.g., the tax treatment of deferred compensation) are similarly monitored. Responsibilities include advising the Secretary about his or her decisions as a trustee of the several Social Security funds. In addition, the division assists the Division of Policy Research and Analysis in the review and conduct of research in the areas of welfare, employment, social security and retirement policy.

2. The *Division of Policy Research and Analysis* is responsible, in conjunction with the Divisions of Income Security Policy and Children and Youth Policy, for reviewing the Department's research and evaluation activities in the areas of income assistance, employment, retirement income, provision of human services, and programs and policies affecting children and youth, and for conducting an intramural and extramural policy research program in these areas on issues of priority to the Secretary, and those that cut across and complement research conducted by HHS agencies.

3. The *Division of Children and Youth Policy* is responsible for policy coordination and development, planning, formulating budget and legislative proposals, economic analysis, policy and program analysis, review of regulations, and information collection and dissemination related to programs and policies affecting children and youth. The principal areas of responsibility include: child welfare and child protection, child care, child development, human services for children and youth, and issues related to special populations of children and youth such as drug-exposed children, runaway youth, homeless children and their families, and disabled children. In addition, the Division assists the Division of Policy Research and Analysis in the review and conduct of research in areas related to programs and policies affecting children and youth.

Dated: December 6, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-30352 Filed 12-26-90; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 90N-0385]

Superharm Corp., et al.; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 68 abbreviated new drug applications (ANDA's). The holders of the ANDA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA No.	Drug	Applicant
70-763	Tolazamide Tablets, USP, 250 milligrams (mg)	SuperPharm Corp., 1769 Fifth Ave., Bayshore, NY 11706.
80-214	Methyttestosterone Tablets, 5, 10, and 20 mg	Private Formulations, Inc., 460 Plainfield Ave., Edison, NJ 08818-1904.
80-280	Trisulfapyrimidines Oral Suspension, USP	Barre-National Inc., 7205 Windsor Blvd., Baltimore, MD 21207-2642.
80-705	Dimenhydrinate Tablets, 50 mg	Private Formulations, Inc.
80-772	Chlorpheniramine Maleate Syrup, 2 mg/5 milliliters (mL)	Barre-National Inc.
80-773	Dimenhydrinate Syrup, USP, 12.5 mg/4 mL	Do.
80-786	Chlorpheniramine Maleate Tablets, 4 mg	Private Formulations, Inc.
83-414	Esterified Estrogens Tablets, 0.625 mg	Do.
83-765	Esterified Estrogens Tablets, 1.25 mg	Do.
84-640	Diphen (Diphenhydramine Hydrochloride) Elixir, 12.5 mg/5 mL	Pharmaceutical Basics Inc., 301 S. Cherokee St., Denver, CO 80223.
84-700	Chlordiazepoxide Hydro-chloride Capsules, USP, 10 mg	Roxane Laboratories, Inc., P.O. Box 16532, 330 Oak St., Columbus, OH 43215-6532.
84-706	Chlordiazepoxide Hydro-chloride Capsules, USP, 5 mg	Do.
85-004	Hydrochlorothiazide Tablets, USP, 25 mg	Do.
85-005	Hydrochlorothiazide Tablets, USP, 50 mg	Do.
85-007	Esterfied Estrogens Tablets, 2.5 mg	Private Formulations, Inc.
85-008	Esterfied Estrogens Tablets, 1.25 mg	Do.
85-698	Phendimetrazine Tartrate Tablets, 35 mg (Yellow)	Do.
85-775	Reserpine Tablets,0.25 mg	Do.
85-940	Triprolidine Hydrochloride Syrup, 1.25 mg/5 mL	Barre-National Inc.
86-117	Reserpine Tablets, 0.1 mg	Private Formulations, Inc.
86-143	SK-Amitriptyline Hydrochloride Tablets, USP, 50 mg	Roxane Laboratories, Inc.
86-144	SK-Amitriptyline Hydrochloride Tablets, USP, 10 mg	Do.
86-145	SK-Amitriptyline Hydrochloride Tablets, USP, 25 mg	Do.
86-146	SK-Amitriptyline Hydrochloride Tablets, USP, 100 mg	Do.
86-147	SK-Amitriptyline Hydrochloride Tablets, USP, 75 mg	Do.
86-148	SK-Amitriptyline Hydrochloride Tablets, USP, 150 mg	Do.
86-545	Theophylline Syrup, 150 mg/15 mL	Barre-National Inc.
86-561	Butabar Belladonna (Belladonna alkaloids with Butabarbital) Elixir	Do.
86-712	Chlorpromazine Hydrochloride Syrup, 10 mg/5 mL	Do.
86-936	Brompheniramine Maleate Elixir, 2 mg/5 mL	Do.
87-122	Methdilazine Hydrochloride Syrup, 4 mg/5 mL	Do.
87-153	Prochlorperazine Edisylate Oral Solution, USP (Concentrate), 10 mg/mL	Do.
87-154	Prochlorperazine Edisylate Syrup, USP, 5 mg/5 mL	Do.
87-315	Hydrocortisone Lotion 1% (Acid pH)	Do.
87-317	Hydrocortisone Lotion, USP, 0.5%	Do.
87-405	Cyproheptadine Hydrochloride Tablets, USP, 4 mg	SuperPharm Corp.
87-751	Hydralazine Hydrochloride Tablets, USP, 50 mg	Pharaceutical Basics Inc.
87-752	Hydrochlorothiazide Tablets, USP, 50 mg	Do.
87-753	Meclizine Hydrochloride Tablets, USP, 25 mg	Do.
87-775	Amitriptylin Hydrochloride Tablets, USP, 25 mg	Do.
87-776	Imipramine Hydrochloride Tablets, USP, 25 mg	Do.
87-780	Hydralazine Hydrochloride Tablets, USP, 25 mg	Do.
87-789	Meclizine Hydrochloride Tablets, USP, 12.5 mg	Do.
87-825	Meprobamate Tablets, USP, 200 mg	Do.
87-826	Meprobamate Tablets, USP, 400 mg	Do.
87-827	Hydrochlorothiazide Tablets, USP, 25 mg	Do.
87-828	Folic Acid Tablets, USP, 1 mg	Do.
87-828	Folic Acide Tablets, USP, 1 mg	Do.
87-837	Qunidine Sulfate Tablets, USP, 200 mg	Do.
87-842	Diphenoxylate Hydrochloride and Atropine Sulfate Tablets, USP, 2.5 mg/0.05 mg	Do.
87-919	Acetaminophen and Codeine Phosphate Tablets, 300 mg/30 mg	Do.
87-920	Acetaminophen and Codeine Phosphate Tablets, 300 mg/60 mg	Do.
87-963	Myidyl Syrup (Triprolidine Hydro-chloride, USP, 1.25 mg/5 mL)	Do.
87-964	Brompheniramine Maleate Elixir, USP, 2 mg/5 mL	Do.
87-996	Promethazine Hydrochloride Syrup, USP, 25 mg/5 mL	Do.
88-039	Hydrocortisone Ointment, USP, 2.5%	Do.
88-061	Hydrocortisone Ointment, USP, 1%	Do.
88-742	Fluocinolone Acetonide Ointment, USP, 0.025%	Do.
88-756	Fluocinolone Acetonide Cream, USP, 0.025%	Do.
88-757	Fluocinolone Acetonide Cream, USP, 0.01%	Do.

ANDA No.	Drug	Applicant
88-787	Hydralazine Hydrochloride Tablets, 10 mg	SuperPharam Corp.
88-788	Hydralazine Hydrochloride Tablets, 25 mg	Do.
88-789	Hydralazine Hydrochloride Tablets, 50 mg	Do.
88-892	Prednisolone Tablets, 5 mg	Do.
89-114	Meclizie Hydrochloride Tablets, 25 mg	Do.
89-190	Is0osorbide Dinitrate Oral Tablets, 5 mg	Do.
89-191	Isosorbide Dinitrte Oral Tablets, 10 mg	Do.
89-192	Isosorbide Dinitrate Oral Tablets, 20 mg	Do.
89-200	Hydralazine Hydrochloride and Hydrochlorothiazide Capsules, 25 mg/25 mg	Do.

The agency has determined under 21 CRF 25.24(c)(3) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the new drug applcations listed above, and all supplements thereto, is hereby withdrawn, effective January 28, 1991.

Dated: December 16, 1990.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 90-30260 Filed 12-26-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Committee on Rural Health

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Mr. Jeffery Human, Executive Secretary, National Advisory Committee on Rural Health, room 14-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-0836.

Dated: December 19, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, Health Resources and Services Administration.

[FR Doc. 90-30200 Filed 12-26-90; 8:45 am]

BILLING CODE 4160-15-M

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

HRSA AIDS Advisory Committee

Copies are available to the Public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, D.C., telephone (202) 245-6791. Copies may be obtained from: Dr. Samuel C. Matheny, M.D., M.P.H., Executive Secretary, HRSA AIDS Advisory Committee, room 14A-11, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-4588.

Dated: December 19, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, Health Resources and Services Administration.

[FR Doc. 90-30201 Filed 12-26-90; 8:45 am]

BILLING CODE 4160-15-M

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service, (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Claims Court, 717 Madison Place NW., Washington, DC 20005, (202) 633-7257. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, 6001 Montrose Road, room # 702, Rockville, MD 20852, (301) 443-6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa-10 *et seq*, provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to

compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by PHS from August 29, 1990 through September 12, 1990. Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the table, or

(b) "sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "**FOR FURTHER INFORMATION CONTACT**"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, room 8–05, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Thomas McKinley on behalf of Benjamin McKinley, Cincinnati, Ohio, Claims Court Number 90–0833 V.

2. R. Burton and Joanne Prugh on behalf of Molly Prugh, Deceased, Burlington, Iowa, Claims Court Number 90–0834 V.

3. Joan Donaldson, Sac City, Iowa, Claims Court Number 90–0837 V.

4. Ann Grant on behalf of Sunshine Ginn, San Mateo, California, Claims Court Number 90–0838 V.

5. Cheryl Carlson on behalf of Spencer Carlson, Tempe, Arizona, Claims Court Number 90–0839 V.

6. William and Barbara Keep on behalf of Adrienne Keep, Coon Rapids, Minnesota, Claims Court Number 90–0841 V.

7. Lisa Pownall, Corvallis, Oregon, Claims Court Number 90–0842 V.

8. Charles Cunningham on behalf of Rebecca Cunningham, Kalispell, Montana, Claims Court Number 90–0844 and 90–0845 V.

9. Dau Nguyen on behalf of Kimberly Nguyen, San Jose, California, Claims Court Number 90–0846 V.

10. Carl J. Perreira on behalf of Carly Perreira, Hilo, Hawaii, Claims Court Number 90–0847 V.

11. Peggy Grimes on behalf of Jason Raye Grimes, Aurora, Colorado, Claims Court Number 90–0850 V.

12. Alan and Marcia Amos on behalf of Christopher Amos, Skokie, Illinois, Claims Court Number 90–0851 V.

13. Adriene Foote on behalf of Andrea Johnson, Calvert County, Maryland, Claims Court Number 90–0852 V.

14. Anissa Powles on behalf of Tommy Alcorn, Deceased, Fresno, California, Claims Court Number 90–0853 V.

15. Shannon Wetherington, Las Vegas, Nevada, Claims Court Number 90–0854 V.

16. Elizabeth Gill on behalf of Jonathan Gill, Pasadena, California, Claims Court Number 90–0855 V.

17. James and Renee Walker on behalf of Jessica Walker, Boise, Idaho, Claims Court Number 90–0856 V.

18. Deborah Taylor on behalf of Raymond Taylor, Jr., Birmingham, Alabama, Claims Court Number 90–0857 V.

19. Kenneth and Lorene Parchman on behalf of Alicia Parchman, Jackson, Tennessee, Claims Court Number 90–0860 V.

20. Robert and Polly Todd on behalf of Andrew Todd, Enid, Oklahoma, Claims Court Number 90–0862 V

21. Robert and Ann Millan on behalf of Robin Millan, Alexandria, Virginia. Claims Court Number 90–0863 V.

22. Sarah Rowsey on behalf of David Rowsey, Miami, Florida, Claims Court Number 90–0864 V.

23. Charles and Wanda Young on behalf of Jeffery Young, Hobbs, New Mexico, Claims Court Number 90–0865 V.

24. Daniel and Lisa Hermes on behalf of Devin Hermes, Ponca City, Oklahoma, Claims Court Number 90–0866 V.

25. James and Lisa Copeland on behalf of Ashley Copeland, Watonga, Oklahoma, Claims Court Number 90–0867 V.

26. Charles and Elizabeth Shields on behalf of Dustin Shields, Independence, Kansas, Claims Court Number 90–0868 V.

27. Thomas and Deadre Leidolf on behalf of Christine Leidolf, Milwaukee, Wisconsin, Claims Court Number 90–0869 V.

28. Ernesto and Marjoli Lopez on behalf of Arjan Lopez, Torrance, California, Claims Court Number 90–0870 V.

29. Ray and Geraldine Walz on behalf of Wade Walz, St. Francis, Kansas, Claims Court Number 90–0871 V.

30. Karyn McDonald on behalf of Kathryn McDonald, Waltham, Massachusetts, Claims Court Number 90–0872 V.

31. Wanda Brown on behalf of Brian Brown, Owensboro, Kentucky, Claims Court Number 90–0873 V.

32. Karen Beck on behalf of Meghan Beck, Boston, Massachusetts, Claims Court Number 90–0874 V.

33. Virginia Yee on behalf of Damon Yee, San Francisco, California, Claims Court Number 90–0875 V.

34. Judith Kirkpatrick on behalf of Kevin Kirkpatrick, Jackson, Michigan, Claims Court Number 90–0877 V.

35. William and Ruth Raley on behalf of William Raley, Indianapolis, Indiana, Claims Court Number 90–0879 V.

36. Harry Plummer, Lake Tahoe, California, Claims Court Number 90–0880 V.

37. Deborah Lewis on behalf of Michael Lewis, Pittsburgh, Pennsylvania, Claims Court Number 90–0881 V.

38. Rexford Murphy on behalf of Christopher Murphy, Greenville, North Carolina, Claims Court Number 90–0882 V.

39. Daniel Garcia on behalf of Daniel Garcia, Jr., Los Angles, California, Claims Court Number 90–0883 V.

40. Susan Quinn, Troy, New York, Claims Court Number 90–0884 V.

41. Elizabeth Miller on behalf of Julie Schmidt, Deceased, Ottawa, Illinois, Claims Court Number 90–0887 V.

42. Colleen Thibaudeau on behalf of Constance Thibaudeau, Missoula, Montana, Claims Court Number 90–0888 V.

43. Warren and Joyce Shepard on behalf of Carrie Shepard, Deceased, Missoula, Montana, Claims Court Number 90–0889 V.

44. Annette Cabral on behalf of Christopher Ramirez, Downey, California, Claims Court Number 90–0891 V.

45. Meloy Camuffo on behalf of Robert Camuffo, Miles City, Montana, Claims Court Number 90–0892 V.

46. Milford W. Rickard on behalf of Dennis Rickard, St. Louis, Missouri, Claims Court Number 90–0893 V.

47. William and Jane Thompson on behalf of Laura C. Thompson, Baltimore, Maryland, Claims Court Number 90–0894 V.

48. Frances Glossick on behalf of Alan Glossick, Long Beach, California, Claims Court Number 90–0895 V.

49. Kristine Hussey on behalf of Jennifer Hussey, Sanford, Maine, Claims Court Number 90–0896 V.

50. Gregory L. Keith, Pinellas Park, Florida, Claims Court Number 90–0899 V.

51. Julie Torres on behalf of Rebecca Rose Torres, Deceased, Woodstock, Illinois, Claims Court Number 90–0900 V.

52. Linda L. McCummings, Harve de Grace, Maryland, Claims Court Number 90–0903 V.

53. Sandra L. Brown on behalf of Erika N. Brown, Haywood, California, Claims Court Number 90–0904 V.

54. Joe C. and Rita Davis, Jr., on behalf of Tara Amanda Davis, Deceased, Memphis, Tennessee, Claims Court Number 90–0905 V.

55. Donald and Desley Boardman on behalf of Megan Boardman, Al Khobar, Saudi Arabia, Claims Court Number 90–0906 V.

56. Isabella S. Cox on behalf of Christopher Mistretta, Petersburg, Florida, Claims Court Number 90–0907 V.

57. Susan C. Cohen on behalf of Andrew R. Cohen, Lauderhill, Florida, Claims Court Number 90–0908 V.

58. Katherine Salisbury-Frye on behalf of Matthew Salisbury, Boulder, Colorado, Claims Court Number 90–0909 V.

59. Jeffrey W. Grablander on behalf of Stacie Dawn Grablander, Valentine, Nebraska, Claims Court Number 90–0910 V.

60. Marc and Karen Sobottke on behalf of Jonathan D. Sobottke, Lake Jackson, Texas, Claims Court Number 90–0911 V.

61. Elizabeth W. Gill on behalf of Jonathan Gill, Pasadena, California, Claims Court Number 90–0912 V.

62. Lyn and Connie Llewellyn on behalf of Tracy Llewellyn, Mountain Home AFB, Idaho, Claims Court Number 90–0913 V.

63. Stewart and Nancy Scarbrough on behalf of Stacey Scarbrough, Medford, Oregon, Claims Court Number 90–0914 V.

64. Michael and Sharon Skinner on behalf of Sharnise Skinner, Newport News, Virginia, Claims Court Number 90–0915 V.

65. Patrick and Karen Walsh on behalf of Brianne Walsh, Deceased, Staten Island, New York, Claims Court Number 90–0916 V.

66. Craig and Melanie Moon on behalf of Adria Moon, Erie, Pennsylvania, Claims Court Number 90–0917 V.

67. Robin Langston on behalf of Skylar Langston, Naselle, Washington, Claims Court Number 90–0918 V.

68. Gerard and Judith Hynek on behalf of Matthew Hynek, Deceased, Denver, Colorado, Claims Court Number 90–0919 V.

69. George Schain on behalf of Paul Schain, Deceased, Brooklyn, New York, Claims Court Number 90–0921 V.

70. L.A. and Mary Ann Moody on behalf of Julie Ann Moody, Shelby County, Tennessee, Claims Court Number 90–0922 V.

71. Jack and Sharon Einspahr on behalf of Julie Einspahr, Lakewood, Colorado, Claims Court Number 90–0923 V.

72. Perry and Michele Stieffel on behalf of Adam Stieffel, Lancaster, Pennsylvania, Claims Court Number 90–0924 V.

73. Katherine Sowdon on behalf of Alena Sowdon, Jackson, California, Claims Court Number 90–0925 V.

74. Ren and Lenora Loney on behalf of Rayme Loney, International Falls, Minnesota, Claims Court Number 90–0926 V.

75. Mark and Pamara Johnson on behalf of Daniel Johnson, Richmond, Indiana, Claims Court Number 90–0927 V.

76. Ronald and Donna Lentz on behalf of Dezri Lentz, Lawrence, Kansas, Claims Court Number 90–0928 V.

77. Steven and Sharon Miles on behalf of Steven Miles, Memphis, Tennessee, Claims Court Number 90–0929 V.

78. Kathy Kosse on behalf of Kyle Kosse, Deceased, Vancouver, Washington, Claims Court Number 90–0930 V.

79. Marianna Reis on behalf of Donald Reis, Deceased, Brooklyn, New York, Claims Court Number 90–0931 V.

80. Beverly and Debra Hodges on behalf of Beverly Hodges, Sandersville, Georgia, Claims Court Number 90–0932 V.

81. Jonathan and Janice Reed on behalf of Joshua Reed, Montrose, Pennsylvania, Claims Court Number 90–0933 V.

82. Shirley Klahn on behalf of Angela Klahn, Black River Falls, Wisconsin, Claims Court Number 90–0934 V.

83. Thomas and Amelia Suel on behalf of David Suel, Shakopee, Minnesota, Claims Court Number 90–0935 V.

84. William and Toni Rote on behalf of Tonya Rote, New Kensington, Pennsylvania, Claims Court Number 90–0936 V.

85. Dennis and Mary Ann Stewart on behalf of Amy Stewart, Anchorage, Alaska, Claims Court Number 90–0937 V.

86. Terry and Carol Culberton on behalf of Stacey Culbertson, St. Peterburg, Florida, Claims Court Number 90–0944 V.

87. Rebecca Dahl on behalf of David Dahl, Jacksonville, Florida, Claims Court Number 90–0946 V.

88. Jerry and Lea Weddel on behalf of Cassie Weddel, Corpus Christi, Texas, Claims Court Number 90–0947 V.

89. John and Deborah Stringfellow on behalf of Amy Stringfellow, Oklahoma City, Oklahoma, Claims Court Number 90–0948 V.

90. Linda Welch on behalf of David Welch, Willits, California, Claims Court Number 90–0950 V.

91. Fred and Linda Daigle on behalf of Glenn Daigle, Deceased, Livingston, Montana, Claims Court Number 90–00951 V.

92. Brenda Edgar on behalf of Michael Edgar, Kirksville, Missouri, Claims Court Number 90–0952 V.

93. Donna Burns on behalf of Ryan Burns, Gardner, Massachussetts, Claims Court Number 90–0953 V.

94. Jane Gamal-Eldin on behalf of Tarik Mohamed, Deceased, Philadelphia, Pennyslvania, Claims Court Number 900954 V.

95. Regina Erzal on behalf of Matthew Erzal, Cressan, Pennyslvania, Claims Court Number 900955 V.

96. Catherine Cassin on behalf of John Cassin, Hinsdale, Illinois, Claims Court Number 900956 V

97. Wesley and Pearl Wait on behalf of Wesley Wait, Muskogee, Oklahoma, Claims Court Number 90–0957 V.

98. John and Dianne Dougherty on behalf of Kimberly Dougherty, Gwinnett, Georgia, Claims Court Number 90–0958 V.

99. Alyce Mills on behalf of Ashley Mills, Daytona Beach, Florida, Claims Court Number 90–0959 V.

100. Lynda Ouellette on behalf of Aaron Ouellette, St. Agatha, Maine, Claims Court Number 90–0960 V.

101. Carl Grose, Fort Ord, California, Claims Court Number 90–0961 V.

Dated: December 20, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90–30202 Filed 12–26–90; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Institute on Aging; Meeting of the National Commission on Sleep Disorders Research

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Commission on Sleep Disorders Research, National Institute on Aging, Sub-Committee on Psychiatric Disorders and Sleep on January 29, 1991, in the Directors Conference Room (room 17105) at the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. For additional information please call Dr. Susan Blumenthal, M.D., M.P.H. at 301–443–4337.

The meeting will be open to the public from 9 a.m. to 5 p.m. The Sub-Committee on Psychiatric Disorders and Sleep will meet to review plans and position papers for the development of the National Plan. Attendance by the public will be limited to space available.

Interested persons should contact Ms. Gladys Bohler, Secretary, DHHS/NIH/NIA, 900 Rockville Pike, Building 31C, room 5C35, Bethesda, Maryland 20892, 301–496–9350, for further details of the meeting.

Andrew A. Monjan, Ph.D., M.P.H., Executive Secretary, National Commission on Sleep Disorders Research, National Institute on Aging, 9000 Rockville Pike, Building 31C, room 5C35, Bethesda, Maryland 20892, 301–496–9350, will provide substantive program information.

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–30233 Filed 12–26–90; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–970–01–4120–14–241A; KYES 42948; 1–00157 ILM]

Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Emergency Coal Lease Application KYES 42948

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Public Hearing and Comment Period.

SUMMARY: The Bureau of Land Management requests public comments on the fair market value, maximum economic recovery and the environmental assessment of certain coal resources it proposes to offer for competitive lease sale. The lands included in Emergency Coal Lease Application KYES 42948 are located in Pike County, Fishtrap Lake, Kentucky within the following portion of land in which the Federal Government owns 100% of the mineral estate:

Corps of Engineer, Grapevine Tract Profile, Tract Nos. 723, 725 and 732. Containing approximately 99 acres.

The range of quality of the coal within the proposed lease is as follows:

Lower Elkhorn Seam

Recoverable coal..... 167,400 short tons

Proximate analysis (%)	Dry basis
Volatile	34.51
Ash	38.90
BTU/lb	13,951
Sulfur	1.33

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract.

In addition, notice is also given that a public hearing will be held on January 23, 1991 on the environmental assessment, the proposed sale, the fair market value, and the maximum economic recovery of the proposed lease tracts.

DATES: Written comments must be received on or before January 18, 1991.

ADDRESS: The public hearing will be held on January 23, 1991 at the Landmark Inn, 146, S. Mayo Trail, Pikeville, Kentucky 41501 at 9 a.m. in the 4th floor dining area.

FOR FURTHER INFORMATION CONTACT: For more complete data on this tract, please contact Pearl Flaver Tillman at (703) 461–1468 or Ian Senio at (703) 461–1455, at the Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

SUPPLEMENTARY INFORMATION: In accordance with the Federal coal management regulations 43 CFR parts 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management, Eastern States Office, and at the above address, in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Eastern States Office, at the above address, during regular business hours (7 a.m. to 5 p.m.) Monday through Friday, except Federal holidays. Comments should be sent to the Bureau of Land Management, Eastern States Office, at the above address, and should address, but not necessarily be limited to the following information:

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal;

2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and

3. Methods of determining the fair market value of the coal to be offered.

The coal characteristics given above may or may not change as a result of comments received from the public and changes in market conditions that occur between now and the time at which final economic evaluations are completed.

Carson W. Culp, Jr.,

Acting State Director.

[FR Doc. 90–30182 Filed 12–27–90; 8:45 am]

BILLING CODE 4310–GJ–M

[NM-930-01-4333-90]

Intent To Prepare a Plan Amendment/ Environmental Assessment to the Rio Puerco and Socorro Resource Management Plans (RMP) New Mexico Involving the Location of the Continental Divide National Scenic Trail (NST)

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare a plan amendment/environmental assessment to the Rio Puerco and Socorro Resource Management Plans.

SUMMARY: An Interagency Environmental Assessment will be prepared by the Federal Land Managing Agencies (U.S. Forest Service (USFS), National Park Service, and BLM) to address the location of the Continental Divide NST in Catron, Cibola, McKinley, and Sandoval Counties, NM. An Interdisciplinary team will prepare the assessment. The resolution of the location of the Continental Divide NST from near Cuba to Pie Town, NM. is the issue to be addressed. As a part of the Interagency Environmental Assessment, a Plan Amendment will be completed for the Socorro RMP. The Rio Puerco RMP will be amended of the Environmental Assessment determines the location if the Continental Divide NST should be different than was approved in the Rio Puerco RMP.

DATES: Four public scoping meetings will be held at the following times and locations:

January 23, 1991, 7 p.m., Cibola Convention Center, 515 West High Street, Grants, NM.

January 24, 1991, 1 p.m., Pie Town Community Center, Pie Town, NM.

January 30, 1991, 5–8 p.m., BLM, Albuquerque District Office, 435 Montano, NE., Albuquerque, NM.

January 31, 1991, 4–7 p.m., Cuba Municipal Bldg., Cuba, NM.

In addition, written comments on the issue, criteria, and possible alternatives will be accepted until February 15, 1991. Those people wanting to be involved in the Interagency Environmental Assessment, or be notified of any public participation opportunities and receive copies of the Plan Amendment/ Environmental Assessment should write to the address below.

ADDRESSES: Mark Catron, Continental Divide National Scenic Trail Study Team Leader, Cibola National Forest, 1800 Lobo Canyon Rd., Grants, NM 87020.

FOR FURTHER INFORMATION CONTACT: Mark Catron, at the address above, or telephone (505) 287–8833.

SUPPLEMENTARY INFORMATION: The Federal Land Managing Agencies decided that an Interagency Environmental Assessment would be completed with the USFS as the lead agency using a team of specialists from each agency. The Plan Amendment/ Environmental Assessment would designate the location of the Continental Divide NST north of Pie Town, NM, to the Cibola County line which was left undecided in the approved Socorro RMP. A trail location was not identified due to the need to take a comprehensive interagency look at possible locations. The Rio Puerco RMP may be amended, if the Interagency Environmental Assessment determines that the route should be different than that now approved in the Rio Puerco RMP.

Following this assessment, a Record of Decision will be prepared for the location of the Continental Divide NST. The Record of Decision will amend the existing RMP's, as necessary, to make them consistent with the Interagency decision on the trail location.

The following are preliminary Planning Criteria to help guide the resolution of the issue: Locate the trail close to the Geographic Continental Divide, consider American Indian concerns, manage and restrict user conflict, avoid the use of private lands, avoid safety hazards, identify and consider potable water sources, consider opportunities for user enhancement, consider the use of existing right-of-ways, minimize development costs, and avoid impacts to sensitive resources.

Dated: December 20, 1990.

Monte G. Jordan,

Associate State Director.

[FR Doc. 90-30313 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-FB-M

[CA-940-01-5410-10-B009; CACA 27688]

California; Conveyance of Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Segregation.

SUMMARY: The private lands described in this notice, aggregating 5.22 acres, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, California State Office, Federal Office Building, 2800 Cottage Way, room E–2845, Sacramento, California 95825, (916) 978–4820. Serial No. CACA 27688.

T. 11 N., R. 13 W., San Bernardino Meridian
sec. 4, W½NW¼W½ lot 2 NW¼.

County—Kern.

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of publication of this notice, whichever occurs first.

Dated: December 17, 1990.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 90-30254 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-01-5410-10-B008; CACA 27690]

California; Conveyance of Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Segregation.

SUMMARY: The private lands described in this notice, aggregating 15.32 acres, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the

Federal Land Policy and Management Act of October 21, 1976.

DATES: The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, California State Office, Federal Office Building, 2800 Cottage Way, Room E-2845, Sacramento, California 95825, (916) 978-4820. Serial No. CACA 27690.

T. 11 N., R. 13 W., San Bernardino Meridian
sec. 4, SW¼W½ lot 2 NE¼.

County—Kern.

Mineral Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1-1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of publication of this notice, whichever occurs first.

Dated: December 18, 1990.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 90-30255 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-40-M

[UTU-65082]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease UTU-65082 for lands in Garfield County, Utah, was timely filed and required rentals and royalties accruing from June 1, 1990, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease UTU-65082 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-30314 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-DQ-M

Intent To Prepare a Resource Management Plan for the Henry Mountain Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to develop A resource management plan and final environmental impact statement, and a call for nominations for Areas of Critical Environmental Concern (ACECs).

SUMMARY: The Henry Mountain Resource Area of the Richfield District is undertaking a resource management planning effort and Environmental Impact Statement (EIS) scheduled for completion in 1993 and is soliciting public input for identifying Areas of Environmental Concern (ACECs) and rivers to be evaluated for Wild and Scenic River status. The approved Resource Management Plan (RMP) will provide overall management direction for the Resource Area. Public comment will be solicited throughout the planning process.

SUPPLEMENTARY INFORMATION: The Henry Mountain RMP/EIS is needed to consolidate, modify, update, and expand the decisions in the existing Henry Mountain and Parker Mountain Management Framework Plans (MFPs). The RMP will bring forward valid existing decisions from these MFPs, incorporating decisions from MFP amendments and other approved planning documents.

The Henry Mountain Resource Area is responsible for management of BLM-administered lands and minerals on approximately 1,524,567 acres in Wayne, Garfield, and Emery Counties, Utah. These counties are located in south-central Utah.

The RMP will coordinate management of Federal lands administered by the Bureau within the Resource Area with the management of the State of Utah, National Park Service, and U.S. Forest Service, as well as other county and private entities. It will also coordinate management with adjoining BLM Districts and Resource Areas.

Issues, problems, and concerns include preservation and/or utilization of resources, type of management to be implemented should Wilderness Study Areas not become wilderness, strategy for management of the buffalo and their relationships to other wildlife and livestock grazing, other grazing relations, access roads to the area, salinity in the Colorado River basin, water, riparian, availability of land for selection by the State of Utah, oil and gas of hydrocarbon, management of area for special species (antelope, bighorn sheep, prairie dog, elk, burro, etc.), management of areas adjacent to land administered by the National Park Service, designation of ACECs, and recommendations of Wild and Scenic Rivers.

The Beaver Wash Canyon, the North and South Cainsville Mesas, and the Gilbert Badlands Research National Area are all designated ACECs. The Little Rockies was also given tentative designation should the area not be designated as a wilderness area. The Bureau will reevaluate these as well as other areas for ACEC designation. Public nominations are being solicited to identify appropriate ACECs. Comments on the existing ACECs as well as nominations on new ones should be submitted to the team leader. Nominations must include a map as well as discussion on why an ACEC is necessary and what special management would be proposed.

The inventory will include collecting data on the rivers and streams of the Resource Area and an analysis of eligibility for nominations to Wild and Scenic River status.

Public participation is being sought at this intitial stage in the planning process to ensure the RMP/EIS addresses all issues, problems, and concerns from anyone interested in the management of the Resource Area.

Those having information which they feel should be considered in preparation of the RMP/EIS should contact the Resource Area or submit the information in writing within 30 days of the publication of this notice to ensure its consideration in the Management Situation Analysis and Alternative Formulation.

Formal public participation will be requested again for review of the Draft RMP/EIS (1992) and proposed RMP/Final EIS (1993). Notice of availability of

these documents will be published at the appropriate times.

The Bureau of Land Management has prepared a preplan which includes data needs, areas of concern (public controversy and resource conflicts), preliminary planning criteria, public participation action plan, and tentative schedule of planning events. Copies of this document may be reviewed at the Resource Area or District Offices.

A mailing list is being prepared; anyone interested in receiving additional information or copies of the RMP/EIS should submit their name and address to the Team Leader.

The RMP will be developed by an interdisciplinary team composed of BLM resource specialists. The team will have a team leader and specialists represented by range conservationists, wildlife biologists, soil scientists, realty specialists, recreation/wilderness specialists, geologists, hydrologists, archaeologists, meteorologists, and other specialists as required.

FOR FURTHER INFORMATION CONTACT: Stan Adams, Team Leader, Bureau of Land Management, Henry Mountain Resource Area, P.O. Box 99, Hanksville, Utah 84734, telephone: (801) 542–3461.

Dated: Dated: December 19, 1990.

James M. Parker,

State Director.

[FR Doc. 90–30314 Filed 12–26–90; 8:45 am]

BILLING CODE 4310–DQ–M

Intent To Amend the House Range Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of the intent to amend the house range resource management plan, Juab County, Utah.

SUMMARY: This notice is to advise the public that the Bureau of Land Management (BLM) is proposing to amend the House Range Resource Management Plan to allow for the designation of an Area of Critical Environmental Concern (ACEC) and to identify certain lands as suitable for disposal and acquisition.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the House Range Resource Management Plan which includes public lands in Juab County, Utah. The purpose of the amendment would be to allow for the designation of an ACEC for an area identified as Gandy Salt Marsh, to identify certain other lands as suitable for disposal through a Desert Land Application, Public Sale, and Private Exchange, and to identify other lands as suitable for acquisition by exchange. An environmental analysis is being prepared for each action. For 30 days from the date of publication of this notice, the BLM will accept comments on these proposals to be considered in the preparation of these analyses and plan amendments.

The following areas have been identified for actions as listed below:

All in Salt Lake Meridian, Utah

Desert Land Application

T. 11 S., R. 16 W., sec. 7, SW¼SW¼, Total 40 acres

Public Sale

T. 12 S., R. 18 W., sec. 12, E½NW¼SW¼, NE¼SW¼SW¼, NE¼SE¼SW¼SW¼, SW¼SW¼NW¼SE¼, Total 35 acres

Private Exchange

Lands to leave the Public Domain

T. 17 S., R. 2 W., sec. 3, W½ SE¼, sec. 10, W½NE¼, SE¼NE¼, N½SE¼, sec 11, S½NW¼, Total 360 acres Lands to become Public Domain

T. 18 S., R. 2 W., sec. 33, SE¼, S½NE¼, NW¼NE¼, E½SW¼, Total 360 acres

The existing plan does not identify these lands for disposal or acquisition. However, because of the resource values and objectives involved, it is thought that the public interest would be well served by the stated land actions.

The lands being considered for designation as an ACEC are described as follows:

Salt Lake Meridian, Utah

T. 15 S., R. 18 W., sec. 17, E½SW¼, E½SW¼SW¼; sec. 19 NE¼NE¼SE¼ and a portion of SE¼SE¼; sec. 20, W½, W½E½; sec. 29, W½, W½E½; sec. 30, a portion of the NE¼, NW¼, S½; sec. 31, approximately 2,270 acres

The area being considered for ACEC designation is a unique desert riparian habitat area containing important threatened and endangered species including least chub, Utah chub, speckled dace, a newly described species of dace, spotted frog, and spotted butterfly.

Comments on the proposed plan amendments should be sent to Roy Edmonds, 900 North 150 East, Richfield, Utah 84701. Existing planning documents and information are available at the above address, as well as the House Range Resource Area Office, P.O. Box 778, Fillmore, Utah 84631, phone: (801) 743–6811.

FOR FURTHER INFORMATION CONTACT: Rex Rowley, House Range Resource Area Manager.

Dated: December 18, 1990.

James M. Parker,

State Director.

[FR Doc. 90–30316 Filed 12–26–90; 8:45 am]

BILLING CODE 4310–DQ–M

[OR–943–01–4214–10; GP1–068; OR–8008(WASH)]

Termination of Proposed Withdrawal and Reservation of Land; Washington

AGENCY: Bureau of Land Management Interior.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers has cancelled its application to withdraw 40 acres of land for the Lower Monumental Lock and Dam Project. This action will open the land to surface entry and mining.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

SUPPLEMENTARY INFORMATION: Notice of U.S. Army Corps of Engineers application OR–8008(WASH) for withdrawal and reservation of land was published as FR Doc. 78–18368 of the issue dated July 3, 1978, and amended as FR Doc. 81–36588 of the issue dated December 23, 1981. The purpose of the proposed withdrawal was to protect the scenic and recreational values near the Paluse River approximately one mile east of Perry, Washington. The applicant agency has determined that the proposed withdrawal is no longer needed and has cancelled the application insofar as it affects the following described land:

Willamette Meridian

T. 13 N., R. 37 E.,
sec. 18, W½E½NE¼.

The area described contains 40 acres in Franklin County, Washington.

Pursuant to the regulations contained in 43 CFR 2310.2–1(C), at 8:30 a.m., on January 28, 1991, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on January 28, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Pursuant to the regulations contained in 43 CFR 2310.2–1(C), at 8:30 a.m., on January 28, 1991, subject to valid existing rights, the provisions of other

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

Dated: December 11, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90-30256 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

[DEIR/DEIS: INT DES-90-33]

Enlargement of Lake Cachuma and Bradbury Dam Safety Modifications, Santa Barbara County, CA

AGENCY: Bureau of Reclamation (Reclamation), Interior.

ACTION: Notice of availability and notice of public hearing for the draft environmental impact report/draft environmental impact statement..

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and section 21002 of the California Environmental Quality Act, Reclamation and the State of California prepared a joint DEIR/DEIS on a proposed project to improve the safety conditions at Bradbury Dam on the Santa Ynez River and to increase Lake Cachuma's conservation storage capacity for local use. The document evaluates Bradbury Dam safety conditions and the county's available water supply options along with the no action alternative.

DATES: A 60-day public review period commences with the publication of this notice. Written comments on the document may be submitted to the Regional Director at the address below and before February 25, 1991.

Public hearings on the DEIR/DEIS have been scheduled to solicit public comment on the project. The hearings will be held at the times, locations, and addresses listed below.

Dates:
January 29, 1991
January 30, 1991

Times:
7 p.m.
7 p.m.

Locations:
Veterans Memorial Building, American Legion Building, 1745 Mission Drive, Solvang CA 93463
Hearing Room, Board of Supervisors, 105 East Anapamu Street, Santa Barbara CA 93101.

ADDRESSES: Single copies of the DEIR/DEIS may be obtained on request from the Regional Director at the address below:

Regional Director, Bureau of Reclamation, Mid-Pacific Region (MP-405), 2800 Cottage Way, Sacramento CA 95825; telephone: (916) 978-5049.

Copies of the DEIR/DEIS are available for public inspection and review at the following locations:

Bureau of Reclamation, Technical Liaison Division, U.S. Department of the Interior, 18th and C Streets, NW., room 7456, Washington DC 20240; telephone: (202) 208-4662.

Bureau of Reclamation, Mid-Pacific Region, Division of Water and Power Resources Management, 2800 Cottage Way, Sacramento CA 95825; telephone: (916) 978-5049.

State of California, Department of Water Resources, 1416 Ninth Street, Sacramento CA 95814; telephone: (916) 322-1573.

Libraries:

Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, room 167, Denver CO 80225.

Bureau of Reclamation, Mid-Pacific Regional Office Library.

State of California, Planning Library, Department of Water Resources.

University of California-Santa Barbara, Santa Barbara, California.

FOR FURTHER INFORMATION CONTACT: Mr. John Brooks (Environmental Specialist), Bureau of Reclamation, Mid-Pacific Region, MP-405, 2800 Cottage Way Sacramento CA 95825; telephone: (916) 978-5049; or Mr. Ray McDowell (Planner), State of California, Department of Water Resources, 1416 Ninth Street, P.O. Box 942836, Sacramento CA 94236-0001; telephone: (916) 322-1573.

SUPPLEMENTARY INFORMATION: The proposed project would enlarge Bradbury Dam and, at the same time, correct the dam safety deficiencies. The dam safety portion of the proposed project would design the dam to safely pass a "probable maximum flood" and the enlargement portion would establish capacity for an additional safe yield of approximately 17,000 acre-feet for local use. To accomplish the objectives, the dam would be raised 90 feet, and the associated operational features would be modified.

Water districts served by Lake Cachuma are experiencing severe water deficiencies in both surface- and groundwater supplies. The current drought conditions have compounded an already serious situation. The water surveyors are attempting to resolve a portion of the existing water shortfall through emergency measures, but a more reliable long-term solution is needed. The enlargement of Lake Cachuma was determined to be the most dependable water source for the area despite the current situation.

The enlargement of Lake Cachuma action would result in wetland and riparian habitat losses, but those losses would be fully mitigated through habitat replacement and/or enhancement.

Dated: December 21, 1990.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 90-30317 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits 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: Columbia University, New York, NY, PRT 754471.

The applicant requests a permit to import 5 vials of tissue samples taken from two captive-held Sumatran rhinoceroses (*Didermoceros sumatrensis*) for genetic research.

Applicant: Dr. Allen Kurta, Ypsilanti, MI, PRT 755087.

The applicant requests a permit to mist-net, handle, punch-mark and place radio transmitters on Indiana bats (*Myotis sodalis*) for biological survey purposes. All bats will be released.

Applicant: Coalinga Cogeneration Company, Bakersfield, CA, PRT 754027.

The applicant requests a permit for incidental take of San Joaquin kit fox (*Vulpes macrotis mutica*) and blunt-nosed leopard lizard (*Gambelia silus*) which may occur during construction and operation of a cogeneration plant to be located in Coalinga, California. The applicant has submitted a conservation plan for the project.

Applicant: University of California, San Diego, La Jolla, CA, PRT 734408.

The applicant requests an amendment to their permit to import samples of naturally shed hair of chimpanzees (*Pan troglodytes schewinfurthii*), (*Pan t. troglodytes*) and (*Pan t. versus*) from the following countries: Kenya, Burundi, Rwanda, Sudan, Uganda, Zaire, Angola, Cameroon, Central African Republic, Equatorial Guinea, Gabon, Nigeria, Benin, Burkina Faso, Gambia, Ghana, Guinea, Guinea Bissau, Ivory Coast, Liberia, Mali, Senegal, Sierre Leone, and Togo. The hair samples will be used for genetic research.

Applicant: U.S. Fish and Wildlife Service, Regional Director, Region 1, Portland, Oregon, PRT 702631.

The applicant requests an amendment of their current permit to authorize additional take activities (remove nestlings from the wild for captive rearing and release of fledglings) with the San Clemente Island loggerhead shrike (*Lanius ludovicianus mearnsi*) for scientific purpose and the enhancement of propagation or survival in accordance with the California Channel Island Species document.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm), room 430, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the Director, U.S. Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203.

Interested persons may comment on any of these applications 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 appropriate PRT number when submitting comments.

Dated: December 20, 1990.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-30203 Filed 12-26-90; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-318]

Commission Determination Not To Review Initial Determination Terminating Investigation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice.

In the Matter of Certain Anti-Knock Ignition Systems and Automobiles or Automobile Component Parts Containing Same.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) in the above-captioned investigation terminating the investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1098.

SUPPLEMENTARY INFORMATION: On October 22, 1990, all of the private parties in the investigation filed a joint motion to terminate the investigation on the basis of a settlement agreement between complainant John A. McDougal and Volvo North America, one of the respondents in the investigation. On November 9, 1990, the presiding ALJ issued an ID (Order No. 4) terminating the investigation on the basis of the settlement agreement. No petitions for review, or agency or public comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Issued: December 14, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-30269 Filed 12-26-90; 8:45 am]

BILLING CODE 7020-02-M

[Inv. No. 337-TA-294]

Commission Determination To Rescind Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

In the matter of Certain Carrier Materials Bearing Ink Compositions To Be Used in a Dry Adhesive-Free Thermal Transfer Process and Signfaces Made by Such a Process

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the joint petition of Minnesota Mining and Manufacturing of St. Paul, Minnesota (3M) and Signtech Inc. (Signtech) of Missaugua, Ontario, Canada to rescind the consent order issued at the conclusion of the above-captioned investigation.

ADDRESSES: Copies of the joint petition, the Commission's order, and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1104.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On February 14, 1989, 3M filed a complaint with the Commission alleging that Signtech and eight U.S. importers were in violation of section 337 of the Tariff Act of 1930 by reason of direct or contributory infringement of U.S. Letters Patent 4,737,224 (the '224 patent) owned by 3M. The '224 patent covers a process for making commercial signs. 3M alleged that Signtech's products were used in a process that infringed the '224 patent by the domestic importers. The Commission instituted an investigation of 3M's complaint on March 22, 1989. On August 16, 1989, the investigation was terminated by issuance of a consent order prohibiting Signtech from exporting its products to the United States. The consent order also prohibited the named domestic importers from buying or importing Signtech's products.

On October 24, 1990, 3M and Signtech jointly petitioned the Commission under Commission interim rule 211.57(a), 19 CFR 211.57(a), to rescind its consent order because Signtech has become a licensee of the '224 patent, and as a result, 3M no longer opposes the importation of Signtech's products. On November 6, 1990, the domestic respondents, Acme Wiley Corporation, Dualite Incorporated, Fairmont Sign

Company, Graflex Incorporated, Harlan Laws Corporation, McHenry Industries, Personal Incorporated, and Superior Electrical Advertising filed a response in support of the petition. On December 10, the Commission investigative attorney also filed a response in support of the motion.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 211.57(b) of the Commission's Interim Rules of Practice and Procedure (19 CFR 211.57(b)).

Issued: December 20, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-30357 Filed 12-26-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-473 (Preliminary)]

Certain Electric Fans From the People's Republic of China

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a), that there is a reasonable indication that industries in the United States are materially injured by reason of imports from the People's Republic of China of certain electric fans, provided for in subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On October 31, 1990, a petition was filed with the Commission and the Department of Commerce by Lasko Metal Products, Inc., West Chester, PA, alleging tha industries in the United States are materially injured or threatened with material injury by reason of LTFV imprts of certain electric fans from the Peope's Republic of China. Accordingly, effective October 31, 1990, the Commission instituted preliminary antidumping investigation No. 731-TA-473 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 6, 1990 (55 FR 46779). The conference was held in Washington, DC, on November 21, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on December 17, 1990. The view of the Commission are contained in USITC Publication 2340 (December 1990), entitled "Certain Electric Fans from the People's Republic of China: Determination of the Commission in Investigation No. 731-TA-473 (Preliminary) under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: December 19, 1990.

By order of the Commission.

Kennith R. Mason,

Secretary.

[FR Doc. 90-30270 Filed 12-26-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-302 (Final) and 731-TA-454 (Final)]

Fresh and Chilled Atlantic Salmon From Norway

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATES: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings (202-252-1192), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION: Effective June 26, 1990 and October 1, 1990, respectively, the Commission instituted the subject investigations and, effective October 29, 1990, the Commission established a revised schedule for their conduct (55 FR 31246, August 1, 1990; 55 FR 45867, October 31, 1990; and 55 FR 48701, November 21, 1990; respectively). Subsequently, respondents requested a further revision of the schedule. Having granted this request, the Commission is further revising its schedule in the investigations as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than February 15, 1991; the deadline for filing rehearing briefs is February 20, 1991 (nonbusiness proprietary version due February 21, 1991); the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 21, 1991; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 26, 1991; the deadline for filing posthearing briefs is March 4, 1991 (nonbusiness proprietary version due March 5, 1991), and the deadline for Parties to file additional written comments on business proprietary information is March 11, 1991 (nonbusiness proprietary version due March 12, 1991).

For further information concerning these investigations see the Commission's notices of investigation and initial revised schedule cited above and the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR Part 201).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: December 17, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-30271 Filed 12-26-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-306]

Conditions of Competition Between U.S. and Mexican Portland Hydraulic Cement and Cement Clinker in the U.S. Market

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for comments.

SUMMARY: Following receipt on November 26, 1990, of a request from the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332-306 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1331(g)). As requested by USTR, the Commission will report to the President on the conditions of competition in the U.S.

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[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h).

[2] Acting Chairman Brunsdale determined that there is no reasonable indication that a domestic incustry is materially injured or threatened with material injury, or that the establishment of a domestic industry is materially retarded, by reason of allegedly less than fair value imports of ceiling fans from the People's of China.

market between U.S. and Mexican portland hydraulic cement and cement clinker—specifically 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 outstanding countervailing duty order on gray portland cement and cement clinker from Mexico (48 FR 43063) were revoked by the Department of Commerce. In conducting its investigation, the Commission, as requested by USTR, will inquire into the following elements: (i) The volume of imports of the merchandise that is the subject of investigation, (ii) the effect of imports of the merchandise on prices in the United States for like prouducts and (iii) the impact of such imports on domestic producers of like products. As indicated by USTR, the terms used above are defined at 19 U.S.C. 1677. Portland hydraulic cement and cement clinker are provided for in subheadings 2523.10.00, 2523.29.00, and 2523.90.00 of the Harmonized Tariff Schedules of the United States (previously under item 511.14 of the former Tariff Schedule of the United States). In accordance with USTR's request, the Commission will submit its report to the President within 150 days of the date of the request.

Written Comments Requested: As suggested by USTR to determine whether there is sufficient interest in the investigation, the Commission invites any person expressing an interest in the continuation of the investigation to provide information regarding the conditions of competition in the U.S. market between U.S. and Mexican portland hydraulic cement and cement clinker. Further, as noted by USTR, should the Commission conclude, on initial review, that there is insufficient interest, the Commission may so advise and terminate the investigation. In accordance with § 201.8 of the Commission's rules (19 CFR 201.8), the signed original and 14 copies of all written submissions must be filed with Secretary to the Commission, 500 E Street SW., Washington, DC 20436. All comments must be filed no later than 14 days after the date of publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under § 201.6 of the Commission's rules (19 CFR 201.6). Such request should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must clearly be marked at the top "Confidential Business Information." The Commission will either accept the submission in confidence or return it. All nonconfidential submissions will be available for public inspection in the Office of the Secretary.

EFFECTIVE DATE: November 26, 1990.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–252–1191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

By order of the Commission.
Issued: December 19, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–30268 Filed 12–26–90; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–466 (Final)]

Sodium Thiosulfate From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–466 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of sodium thiosulfate, provided for an in subheading 2832.30.10 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). The Commission will make its final injury determination within 45 days of the date of Commerce's final determination (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: December 12, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202–252–1187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of sodium thiosulfate from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 9, 1990, by Calabrian Corp., Houston, TX. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by a reason of imports of sodium thiosulfate (55 FR 35373, August 29, 1990).

Participation in the investigation. The Commission hereby waives the time limits in § 201.11 of its rules and requires that persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission not later than seven (7) days after the publication of this notice in the **Federal Register**. This waiver of the rules is necessary to ensure that this investigation can be conducted on the same schedule as concurrently filed investigations Nos. 731–TA–465 and 468 (Final), sodium thiosulfate from Germany and the United Kingdom (55 FR 45870). Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list. Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of a business proprietary information under a protective order and business proprietary information service list. The Commission hereby waives the time limits in § 207.7(a) of its rules; the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report. The prehearing staff report in this investigation will be placed in the nonpublic record on December 18, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing. The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 4, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 31, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 3, 1991, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 28, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 31, 1990.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submission. Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR § 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 10, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due January 11, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 10, 1991.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 15, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 16, 1991.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20)

By order of the Commission.

Issued: December 19, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–30272 Filed 12–26–90; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–321]

Certain Soft Drinks and Their Containers; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 23, 1990, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Kola Colombiana, Inc., 92–14 Corona Avenue, Elmhurst, New York 11373. Amendments to the complaint were filed on December 10, 12, and 14, 1990. The complaint, as amended, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain soft drinks and their containers based upon (1) False representation or designation of origin, (2) common law trademark infringement, and (3) misappropriation of trade dress, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complaint requests that the Commission institute an investigation and, after a full investigation, issue a

permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202–252–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

FOR FURTHER INFORMATION CONTACT: Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, Telephone 202–252–1579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on December 17, 1990, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain soft drinks and their containers by reason of alleged (1) False representation of source, (2) common law trademark infringement, and (3) misappropriation of trade dress, the threat or effect of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this Notice of Investigation shall be served:

(a) The Complainant is:

Kola Colombiana Inc., 92–14 Corona Avenue, Elmhurst, New York 11373.

(b) The respondents are the following companies alleged to be in violation of section 337, and the parties upon which the complaint is to be served:

International Grain Trade, Inc., 55 East 59th Street, New York, New York 10022

Universe Trading Corp., 2250 N.W. 93rd Avenue, Miami, Florida 33172

Corbros Foods Corp., 102–20 Strong Avenue, Corona, New York 11368

Colgran Ltda., P.O. Box 9140, Bogota, Colombia.

(c) Kent R. Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., room 401D, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the Notice of Investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules, 19 CFR §§ 201.16(d) and 210.21(a), such response will be considered by the Commission if received not later than 20 days after the date of service of the complaint and this Notice of Investigation. Extensions of time for submitting responses to the complaint and Notice of Investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this Notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this Notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this Notice, and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order, or a cease and desist order, or both, directed against such respondent.

Issued: December 18, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90–30273 Filed 12–26–90; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31793]

Michigan Shore Railroad, Inc.—Acquisition and Operation Exemption—Central Michigan Railway

The Michigan Shore Railroad, Inc. (MSR), a noncarrier, has filed a notice of exemption to acquire and operate approximately 8 miles of rail line owned and operated by the Central Michigan Railway.[1] The line, known as the Muskegon Yard, is located in Muskegon County, MI, and extends (1) from west of Lincoln Street (at the Nugent Sand Company) east to Getty Street (at the Web Chemical Company), and (2) from Seaway Drive north and east to Walker Road (at the Pro Gas Company). MSR plans to consummate this transaction immediately after the effective date of this notice of exemption and expects to be a Class III carrier.

Any comments must be filed with the Commission and served on: Bonnie L. Booden, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

MSR 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: December 20, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland,

Secretary

[FR Doc. 90–30293 Filed 12–26–90; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31794]

Railtex, Inc.—Continuance in Control Exemption—Michigan Shore Railroad, Inc.

RailTex, Inc. (RailTex), a noncarrier, has filed a notice of exemption to continue in control of six Class III rail carriers and Michigan Shore Railroad, Inc. (MSR). RailTex controls the following class III rail carriers, which op–erate in nine States: Chesapeake and Albemarle Railroad Company, Inc. (CAR); North Carolina & Virginia Railroad Company, Inc. (NCV); Mid Michigan Railroad Company, Inc. (MMR); San Diego & Imperial Valley Railroad Company, Inc. (SDI); Austin & Northwestern Railroad Company, Inc.

[1] MSR is controlled by RailTex, Inc. (RailTex), which also controls six other Class III carriers. RailTex continuance in control of MSR and its other carriers is the subject of a notice of exemption in Finance Docket No. 31794, *RailTex, Inc.—Continuance In Control Exemption—Michigan Shore Railroad, INc.*

(ANR); and South Carolina Central Railroad Company, Inc. (SCC).

MSR, a noncarrier, has filed a notice of exemption for its acquisition and operation of 8 miles of railroad in Muskegon County, MI, in Finance Docket No. 31793, *Michigan Shore Railroad, Inc.—Acquisition And Operation Exemption—Central Michigan Railway*. When MSR begins rail operations, RailTex will be in control of seven rail carriers.

Railtex indicates that: (1) The properties operated by CAR, NCV, MMR, SDI, ANR, SCC, and MSR will not connect with each other; (20 the continuance in control is not part of a series of anticipated transactions that would connect the rail carriers with each other or with any other railroad in their corporate family; and (3) the transaction does not involve a class I rail carrier. This transaction involves the continuance in 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 use of this exemption, any employees affected by the tansaction 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 stay the transaction. Pleadings must be filed with the Commission and served on: Kelvin J. Dowd, Slover & Loftus, 1224 17th Street, NW, Washington, DC 200436.

Decided: December 21, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-30294 Filed 12-26-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31775]

Soo Line Railroad Co. and Chicago and Northwestern Transportation Company—Joint Relocation Project Exemption; Correction [1]

On November 29, 1990, Soo Line Railroad Company (Soo) and Chicago and North Western Transportation Company (CNW), filed a notice of exemption under 49 CFR 1180.2(d)(5) for their joint project to relocate a line of railroad. The joint project consists of a relocation of Soo's "bridge" trackage rights over CNW's line between Hopkins and Shakopee, MN, to an alternative CNW line between Cliff and Shakopee, MN.[2]

The joint trackage is over that portion of CNW's main line railroad tracks between the point of switch of the connection at milepost 4.18 at St. Paul (Cliff), MN, and the point of switch of the connection at milepost 29.00 at Shakopee, MN, a distance of 24.82 miles. This includes all sidings now existent or hereafter constructed along the joint trackage to be jointly used and includes other appurtenances and facilities, signals, switches, jointly used connecting tracks, interlocking devices and plants, signal and communication lines, and all improvements and betterments as are required for the operation of the parties over the joint trackage. The proposed relocation project will permit Soo to realize substantial operating economies in providing service to Shakopee, as it will permit the termination of the subsidy agreement and will permit CNW to complete the abandonment of segments otherwise authorized or exempted.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers as Soo does not serve shippers over the present "bridge" rights and does not serve shippers along the CNW lines, except at Shakopee which will not be affected by the relocation. There will be no expansion into new territory for Soo because it already serves the shippers at Shakopee, and there will be no change in the existing competitive situation. The joint relocation qualifies under the class exemption procedures at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

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 Larry D. Starns, General Attorney, Administrative Law and Contracts, Soo Line Railroad Company, Soo Line Building, Box 530, Minneapolis, MN 55440, and on Robert T. Opal, Commerce Counsel, Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, IL 60606.

Dated: December 10, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-30295 Filed 12-26-90; 8:45 am]

BILLING CODE 7035-01-M

[1] This corrected notice of exemption is being issued to reflect the proper citation for the labor conditions which are being imposed.

[2] The present routing includes a segment between milepost 21.0 at Hopkins and milepost 32.0 at Chaska, MN. Soo is subsidizing CNW's retention of this line for Soo trackage rights operations under a 49 U.S.C. 10905 subsidy agreement approved by the Commission in Docket No. AB-1 (Sub-No. 206) *Chicago and North Western Transportation Company—Abandonment and Discontinuance of Trackage Rights—Between Hopkins and Chaska, MN* (not printed), served April 5, 1988. Issuance of a certificate for CNW to abandon the line and for Soo to discontinue trackage rights over the line was postponed for as long as the subsidy agreement was in effect. As part of the proposed relocation, the subsidy agreement is being terminated. The present routing also includes another segment (between mileposts 19.85 and 21.0), abandonment of which was exempted in Docket No. AB-1 (Sub-No. 231X), *Chicago and North Western Transportation Company—Abandonment Exemption—In Hennepin Co., MN* (not printed), served June 26, 1990.

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

State Reimbursement Program for Incarcerated Mariel Cubans

AGENCY: Office of Justice Programs, Bureau of Justice Assistance (BJA), Justice.

ACTION: Notice of issuance of solicitation for applications to reimburse States for partial expenses incurred by the incarceration of certain Mariel Cubans.

SUMMARY: The Department of Justice Appropriations Act, 1991, title II of Public Law 101-515, allocates up to $4.963 million to implement the State Reimbursement Program for Incarcerated Mariel Cubans. The State Reimbursement Program for Incarcerated Mariel Cubans provides assistance to the States to defray expenses associated with the incarceration of Mariel Cubans in State facilities. Mariel Cubans affected by the Act are those individuals incarcerated after conviction of a felon, following their parole by the Attorney General, during the influx of Cubans leaving the Port of Mariel in 1980. The period of incarceration for reimbursement purposes is October 1, 1990, to September 30, 1991.

DATES: The State applications must be postmarked no later than February 1, 1991.

ADDRESSES: Bureau of Justice Assistance, Special Programs Division, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION: Louise Lucas, BJA, 202/307–1065.

SUPPLEMENTARY INFORMATION: One of the serious consequences of the 1980 Mariel Cuban Boatlift was the added burden placed upon the criminal justice systems of many states. The Mariel Boatlift included a minority of extremely violent offenders released from Cuban prisons. Many were subsequently convicted of felonies, and were incarcerated in State prisons in the United States. As a result, these States have been burdened with the additional costs of incarceration.

I. General Provisions

Eligible Applicants

All States are eligible to apply for and receive grants. State means any State of the United States and includes the District of Columbia and the Commonwealth of Puerto Rico.

Participating States

It is expected that the 39 States that participated in the State Reimbursement Program last year will prticipate again this year. Those States participating in 1990 included: Arkansas, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington State, West Virginia and Wisconsin. There is the possibility that a few additional States will participate in 1991.

II. Allocations and Use of Funds

Fund Availability

The Act provides a total of $4.963 million for the purpose of making grants to States. Awards will be calculated by taking the aggregate number of verified inmate months from all applications submitted and dividing the months into the appropriation. The verified number of months for each application will then be multiplied by the average inmate cost per month. The amount of reimbursement per prisoner, per annum, shall not exceed $12,000.

Fund Use

The intent of the public law is to reimburse the States for partial expenses incurred by reason of Mariel Cubans having to be incarcerated in State facilities. Therefore, a budget or expenditure plan is not required, as the award will be used solely for reimbursement purposes. Matching funds are not required.

III. Application Content

(a) All State applicants must submit Standard Form 424 (Application for Federal Assistance), and a certified listing of incarcerated Mariel Cuban prisoners. BJA requests that inmates previously verified be separated from newly submitted inmates. For those previously verified, there is no need to resubmit Items 13 & 14 below. The certified listing will include information in the following sequence:

(1) Name (last name first)
(2) AKA (also known as)
(3) Alien Identification Number (e.g., A24 456 789)
(4) Inmate Number
(5) Date of Birth
(6) Incarceration Date
(7) Probable Earliest Release Date
(8) Description of Conviction Offense (the violated Criminal Offense Code No. alone is not acceptable)
(9) Conviction Date
(10) Last Known Address
(11) State Facility Housing the Prisoner
(12) State Facility Address
(13) I–247 Form—Immigration Detainer Notice (If INS has filed a Detainer on this prisoner, submit a copy)
(14) Fingerprint Card

Submission of Mariel Cuban data in an alternative format must be approved by BJA prior to submission of an application.

(b) The certified listing must be signed by the Governor or one of his or her authorized representatives.

(c) The period of incarceration for reimbursement purposes is October 1, 1990, to September 30, 1991. The computation of funds will be based on an aggregate total of certified prisoners incarcerated for a 12-month period (e.g., if two prisoners are incarcerated for six months during the period, the State will be reimbursed the full amount for one year).

(d) The Act is specific in that the prisoner must have been paroled into the United States by the Attorney General during the 1980 influx of Mariel Cubans. This means those Cubans who Entered Without Inspection (EWI), earlier arrivals (preboatlift), and/or later arrivals (post-boatlift) will not be included and, thus, expenses incurred will not be reimbursed.

(e) State law will prevail when a determination is required as to what constitutes a State facility and/or a State prisoner.

IV. Review of State Applications

State applications must be submitted in the required format and at the time prescribed.

(a) The application and certified listing will be reviewed by BJA and a cross-check verification of prisoners will be made by the Immigration and Naturalization Service of the U.S. Department of Justice. This review will be completed no later than April 1, 1991, and grants will be made to the States immediately thereafter.

(b) Compliance is required with Executive Order 12372, "Intergovernmental Review of Federal Programs." This program is covered by Executive Order 12372 and Department of Justice implementing regulations 28 CFR part 30. At the same time applications are submitted to BJA, States must submit grant applications to the State's Single Point of Contact, if there is a Single Point of Contact, and if this program has been selected for coverage by the State process. State processes have 60 days starting from the application deadline to comment on applications. Applicants should contact their State Single Point of Contact as soon as possible to alert them to the prospective application and receive instructions regarding the process.

(c) Compliance is required with Executive Order 12549, Debarment and Suspension, 34 CFR part 85, § 85.510, Participants' Responsibilities, which requires a certification regarding debarment, suspension, ineligibility, and voluntary exclusion (OJP Form 4061/2) from all recipients of Federal funds. This form should be submitted by the State as part of its application.

(d) Compliance is required with Title V, Sec. 5153 of the Anti-Drug Abuse Act of 1988, which requires all recipients of Federal funds, other than an individual, to certify to the granting agency that it will provide a drug free workplace (OJP Form 4061/3). This form should be submitted by the State as part of its application.

(e) Upon completion of a review of State applications, BJA will notify the applicant, in writing, of any specific reasons for disapproval of the application, in whole or in part.

V. Civil Rights Assurances

The applying State must specifically assure that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination laws and regulations, including the following:

(a) Title VI of the Civil Rights Act of 1964;

(b) Section 809(c) of the Anti-Drug Abuse Act of 1988;

(c) Section 504 of the Rehabilitation Act of 1973, as amended;

(d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975; and,

(f) The Department of Justice Non-Discrimination Regulations, 28 CFR part 42, subparts C, D, E, and G.

Any application for $500,000 or more must be accompanied by a copy of the current Equal Employment Opportunity Program of the corrections department in accordance with the provisions of 28 CFR 42.301 *et seq.* State applicants that previously applied for and received funding under this initiative, and have also received an Office of Justice Programs approval of their Equal Employment Opportunity Program, need only submit a statistical update of the previously approved program.

Gerald (Jerry) P. Regier,

Acting Director, Bureau of Justice Assistance.

[FR Doc. 90-30239 Filed 12-26-90; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Labor Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with General Services Administration (GSA), I have determined that renewal of the Labor Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics regarding the statistical and analytical work of the Bureau of Labor Statistics, providing perspectives on these programs in relation to the needs of the labor unions and their members.

Council membership and participation in the Council and its committees are broadly representative of the union organizations of all sizes of membership, with national coverage which reflects the geographical, industrial, and occupational sectors of the economy.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Charter has been filed with GSA and the appropriate congressional committees.

Further information may be obtained from: Henry Lowenstern, Bureau of Labor Statistics, Department of Labor, GAO Building, 441 G Street, NW., Washington, DC 20212, telephone: 202-523-1327.

Signed at Washington, DC this 17th day of December 1990.

Roderick DeArment,

Acting Secretary of Labor.

[FR Doc. 90-30248 Filed 12-26-90; 8:45 am]

BILLING CODE 4510-24-M

Mine Safety and Health Administration

[Docket No. M-90-19-M]

Energy Fuels Nuclear, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Energy Fuels Nuclear, Inc., P.O. Box 36, Fredonia, Arizona 86022 has filed a petition to modify the application of 30 CFR 57.19025 (load end attachments) to its Arizona No. 1 Mine (I.D. No. 02-02443), and its Canyon Mine (I.D. No. 02-02346) both located in Coconino County, Arizona; its Kanab North Mine (I.D. No. 02-02132), and its Pinenut Mine (I.D. No. 02-02286) both located in Mohave County, Arizona. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that except for terminations where use of other materials is a design feature, zinc (spelter) be used for socketing wire ropes.

2. As an alternate method, petitioner proposes to use an epoxy resin as a socketing medium in lieu of zinc in the poured socket wire rope termination.

3. In support of this petition, petitioner states that:

(a) There is no difference in the development of 100 percent efficiency when socketing resin or zinc;

(b) Resin socketing has been laboratory tested to develop strengths equal to or greater than zinc socket involving a safety socketing process; and

(c) Sufficient evidence has been presented to justify approval of resin poured sockets for personnel hoisting applications.

4. Petitioner states that there are risks associated with pouring zinc sockets, which are eliminated when using resin poured sockets, therefore, the use of resin socketing will provide increased safety to the personnel.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 28, 1991. Copies of the petition are available for inspection at that address.

Dated: December 18, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-30249 Filed 12-26-90; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90-107)]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee and the Aerospace Research and Technology Subcommittee.

DATES: January 23, 1991, 8:30 a.m. to 5:15 p.m.; January 24, 1991, 8 a.m. to 4:45 p.m.; and January 25, 1991, 8 a.m. to 4 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Building 1222, H.J.E. Reid Conference Center, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine L. Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2367.

SUPPLEMENTARY INFORMATION: The NAC Aeronautics Advisory Committee (AAC) was established to provide overall guidance to the Office of Aeronautics, Exploration and Technology (OAET) on aeronautics research and technology activities. The Aerospace Research and Technology Informal Subcommittee (ARTS) was formed to provide technical support for the AAC and to conduct ad hoc interdisciplinary studies and assessments. The Committee, chaired by Mr. Philip M. Condit, is composed of 23 members. The Subcommittee is composed of 43 members. The meeting

will be open to the public up to the seating capacity of the room (approximately 150 persons including the Subcommittee members and other participants).

Type of Meeting: Open.

Agenda:

January 23, 1991
- 8:30 a.m.—Opening Remarks.
- 8:45 a.m.—Welcome/Center Overview by Center Director.
- 9:15 a.m.—Aeronautics Update and Overview.
- 10:30 a.m.—Parallel Vehicle Program Overviews.
- 1:30 p.m.—Facility Tours.
- 2:30 p.m.—Wrap-up of Vehicle Program Overviews.
- 3:45 p.m.—Parallel Discipline Program Reviews.
- 5:15 p.m.—Adjourn.

January 24, 1991
- 8 a.m.—Discipline Program Reviews Continued.
- 1:30 p.m.—Facility Tours.
- 2:30 p.m.—Discipline Program Reviews Continued.
- 4 p.m.—General Plenary Session.
- 4:45 p.m.—Adjourn.

January 25, 1991
- 8 a.m.—Opening Remarks.
- 8:15 a.m.—Aeronautics and National Aerospace Plane Update.
- 8:45 a.m.—Discussion of Key Points from AAC/ARTS Meeting.
- 10:30 a.m.—NASA's Role in Competitiveness.
- 1:45 p.m.—Metrication In Industry.
- 2:15 p.m.—Ad Hoc Activities.
- 3 p.m.—NASA Responses to Ad Hoc Team Recommendations.
- 3:30 p.m.—Discussion of Issues and Recommendations.
- 4 p.m.—Adjourn.

Dated: December 20, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-30277 Filed 12-26-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice (90-108)]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Review Team on the Use of Space Station Freedom for In-Space Technology Development and Engineering Research.

DATES: February 7, 1991, 9 a.m. to 5 p.m.; and February 8, 1991, 9 a.m. to 2 p.m.

ADDRESSES: General Research Corporation, room 7074, 1900 Gallows Road, Vienna, VA 21182.

FOR FURTHER INFORMATION CONTACT: Dr. Judith H. Ambrus, Office of Aeronautics, Exploration and Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2738.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance to the Office of Aeronautics, Exploration and Technology (OAET) on space systems and technology programs. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on the Use of Space Station Freedom for In-Space Technology Development and Engineering Research, chaired by Dr. M. Frank Rose, is composed of eight members.

The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the team members and other participants).

Type of Meeting: Open.

Agenda:

February 7, 1991
- 9 a.m.—Opening Remarks/Discussion of Charter.
- 10 a.m.—Status of the Space Technology Program.
- 11 a.m.—Status of the Space Exploration Program.
- 1 p.m.—Status of Space Station Freedom.
- 3 p.m.—Space Station Freedom Utilization for Science and Applications.
- 4 p.m.—Space Station Freedom Utilization for Commercial Applications.
- 5 p.m.—Adjourn.

February 8, 1991
- 9 a.m.—The OAET Flight Experiments Program.
- 10 a.m.—Status of OAET Planning for Space Station Freedom Utilization.
- 11 a.m.—Future Committee Plans/ General Discussion.
- 2 p.m.—Adjourn.

Dated: December 20, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-30278 Filed 12-26-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: Wednesday, January 16, 1991, 9 a.m. to 5:30 p.m.; Thursday, January 17, 1991, 9 a.m. to 5:30 p.m.

PLACE: Pan American Health Organization, 525 23rd Street NW., Washington, DC 20037.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, The National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street NW., suite 815, Washington, DC 20006 (202) 254-5125. Records shall be kept of all Commission proceedings and shall be available for public inspection at this address.

AGENDA: Wednesday, January 16, 1991 will be devoted to Commission business. On Thursday, January 17, 1990, the Commission will discuss issues related to substance use and the HIV epidemic.

Interpreting services re available for deaf people. Please call our TDD number (202) 254-3816 to request services no later than January 11, 1991.

Dated: December 20, 1990.

Maureen Byrnes,

Executive Director.

[FR Doc. 90-30251 Filed 12-26-90; 8:45 am]

BILLING CODE 6820-CN-M

NATIONAL SCIENCE FOUNDATION

Committee Management, Renewal

The cognizant Assistant Directors for the Advisory Committee and Panel listed below have determined that the renewal of these groups is necessary and in the public interest in connection with the preformance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq*. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Advisory Committee for Cross-Disciplinary Activities Advisory Panel for Engineering Centers Division

(formerly Advisory Review Panel for Engineering Research Centers).

Authority for this Committee and Panel will expire on December 30, 1992 unless they are renewed.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-30329 Filed 12-26-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomical Sciences.

Date and Time: January 7, 1991, 9 a.m.–5:30 p.m.; January 8, 1991, 9 a.m.–4 p.m.

Place: National Science Foundation, room 540.

Type of Meeting: January 7, 1991, 9 a.m.–2 p.m. Open, 2 p.m.–3 p.m. Closed, 3 p.m.–5:30 p.m. Open; January 8, 1991, 9 a.m.–11:40 a.m. Open, 11:30 a.m.–1:00 p.m. Closed, 1 p.m.–4 p.m. Open.

Contact Person: Dr. Julie H. Lutz, Director, Division of Astronomical Sciences, room 615, National Science Foundation, Washington, DC 20550, (202/357-9488).

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF-funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short-range and long-range plans in astronomy, including a recommendation of relative priorities.

Agenda:

Monday, January 7

9 a.m.–11 a.m. FY 91, FY 92, and FY 93 Budgets.

11:15 a.m.–12:30 p.m. Long-Range Planning and Priorities Subcommittee.

2 p.m.–3 p.m. Closed: Review of Proposal.

Reason for Closing: The project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

3 p.m.–4 p.m. 8-Meter Telescopes Project Status Report.

4 p.m.–5 p.m. Report of Subcommittee on Keck II.

5 p.m.–5:30 p.m. Other Business.

Tuesday, January 8

9 a.m.–10 a.m. Consideration of Report of the Merit Review Task Force.

10 a.m.–11:15 a.m. Status Reports (VLBA, GBT, Arecibo Upgrade, MM-Array, Adaptive Optics).

11:30 a.m.–1 p.m. Closed: Personnel Matters.

Reason for Closing: The personnel matters being discussed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption (6) of U.S.C. 552b(c), Government in the Sunshine Act.

1:15 p.m.–2 p.m. Status Reports (Continued).

2 p.m.–3 p.m. Meeting with Acting Director, Dr. Frederick M. Bernthal.

3 p.m.–4 p.m. Priorities and Resolutions.

Authority to Close Meeting: The determination made on December 12, 1990 by the Acting Director of the National Science Foundation pursuant to the provisions of section 10(d) of Public Law 92-463.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-30330 Filed 12-26-90; 8:45 am]

BILLING CODE 7555-01-M

Biological, Behavioral and Social Sciences Task Force Looking to the 21st Century; Public Hearing and Meeting

The National Science Foundation announces the following:

Name: Biological, Behavioral and Social Sciences Task Force Looking to the 21st Century.

Date and Time: Task Force Meeting/ January 13 and 14, 1991, 9 a.m. to 4 p.m.

Place: Key bridge Marriott, Arlington, Virginia.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological, Behavioral and Social Sciences, (202) 357-9854, room 506, National Science Foundation, Washington, DC 20550.

Summary of Minutes: May be obtained from the contact person.

Purpose of Task Force: To examine the organizational structure of BBS and to evaluate the adequacy and effectiveness of that structure to respond to new research opportunities and scientific challenges in the future.

Task Force Meeting Agenda: Sunday, January 13, and Monday, January 14, the task force will hold a meeting to continue with a synthesis of the findings from the public hearing held in December.

Dated: December 2, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-30331 Filed 12-26-90; 8:45 am]

BILLING CODE 7555-01-M

Data and Policy Analysis Advisory Committee; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Data and Policy Analysis.

Place: National Science Foundation, 1800 G Street NW., Washington, DC 20550, Conference room 543.

Type of Meeting: Open.

Contact Person: Carlos Kruytbosch, Executive Secretary, Data and Policy Analysis, National Science Foundation, (202) 634-4682.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To discuss the content of the Division's program goals and objectives and to advise on areas and priorities, new initiatives and other topics of interest to the Division.

Agenda: Opening Remarks: Presentations by staff Committee discussion and formulation of work plan.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-30332 Filed 12-26-90; 8:45 am]

BILLING CODE 7555-01-M

Division of Earth Sciences; Special Emphasis Panel, Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information

concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Earth Sciences.

Date: January 23, 1991.

Time: 8:30 to 5:00.

Place: Room 523, National Science Foundation, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Agenda: Review and evaluate Postdoctoral Research Fellowship Applications.

Contact Person: Dr. Arnold Silverman, Program Director, Cross-Directorate Programs, National Science Foundation, room 602, Washington, DC 20550 (202–357–7958).

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30335 Filed 12–26–90; 8:45 am]

BILLING CODE 7555-01-M

Committee on Equal Foundation in Science and Engineering; Meeting

Name: Committee on Equal Opportunities in Science and Engineering.

Place: National Science Foundation, 1800 G Street, NW. Washington, DC 20550.

Dates: January 24 & 25, 1991.

Times/Room: January 24—8:30 a.m.–5 p.m.—Room 540. January 25—8 a.m.–3 p.m.—Room 540.

Type of Meeting: Open.

Contact: Mary M. Kohlerman, Executive Secretary of the CEOSE, National Science Foundation, Room 1225, Telephone Number: 202–357–7425.

Purpose of Meeting: To provide advice to the Foundation on policies and activities to encourage full participation of groups currently underrepresented in scientific, engineering, professional and technical fields.

Agenda: January 24. Presentations/ Discussions: 8:30 a.m.–12 p.m. Lunch: 12 noon Presentations/Small Group Sessions: 1:30 p.m.–3:30 p.m. Full Committee Meeting: 3:30 p.m.

January 25. Full Committee Meeting: 8 a.m.–9 a.m. Presentations: 9–12 noon., Lunch: 12 noon. Presentations 1:30 p.m.–2 p.m. Discussion with NSF Acting Director: 2 p.m. Adjournment: 3 p.m.

Summary Minutes: May be obtained from the Executive Secretary at the above address.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30336 Filed 12–26–90; 8:45 am]

BILLING CODE 7553-01-M

Division of Engineering Infrastructure Development, Special Emphasis Panel, Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in the Division of Engineering Infrastructure Development.

Date: January 14, 1991.

Time: 8:30 to 5:00.

Place: St. James Hotel, 920 24th Street NW., Washington, DC.

Type of meeting: Closed.

Agenda: Review and evaluate Faculty Awards for Women Proposals.

Contact: Dr. Lucy C. Morse, Associate Program Manager, Human Resources Development, National Science Foundation 1776–G DEID, Washington, DC 20550 (202–786–9631).

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 90–30333 Filed 12–26–90; 8:45 am]

BILLING CODE 7555-01-M

Instructional Opportunities in Science and Engineering; Meeting

The National Science Foundation announces the following meeting:

Name: Instructional Materials Development Panel Meeting.

Date and Time: January 11–12, 1991, from 8:30 a.m. to 5 p.m.

Place: The Georgetown Inn, 1310 Wisconsin Avenue, NW., Washington, DC 20007.

Type of Meeting: Closed Meeting.

Contact Person: Alice J. Moses, Gerhard Salinger, Frank Sutman, Jerry Theise, Joseph Adney, Christian Hirsch, and Donald Humphreys, National Science Foundation, 1800 G St. NW., Washington, DC 20550; Instructional Materials Development, room 635–A Phone (202) 357–7066

Summary of Minutes: May be obtained from the contact persons at the above address.

Purpose of Meeting: To attend Instructional Materials Development Panel and provide advice and recommendations concerning K–12 Math, Science and Technology education.

Agenda: To review and evaluate Instructional Materials Development proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a propriety confidential including nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30337 Filed 12–26–90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for International Programs Subcommittee on ICSU; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 29–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Date and Time: January 18, 1991, 9 a.m. to 3 p.m.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Type of Meeting: Open.

Contact Person: Ms. Jeanne Hudson, Executive Secretary, Division of International Programs, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7613.

Summary of Minutes: May be obtained from contact person.

Agenda and Purpose of Meeting: To provide advice and recommendations related to US participation in and support of the International Council of Scientific Unions (ICSU).

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30338 Filed 12–26–90; 8:45 am]

BILLING CODE 7555–01–M

Materials Research Advisory Committee; Meeting

The National Science Foundation Announces the Following Meeting:

Name: Materials Research Advisory Committee (MRAC)

Place: Room 540, National Science Foundation, 1800 G Street NW, Washington, DC 20550

Date: Thursday and Friday, January 10 & 11, 1991

Time: 8 a.m.–5 p.m., Thursday; 9 a.m.–5 p.m., Friday

Type of Meeting: Closed

Contact Person: Dr. J. Narayan, Division Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC 20550 Telephone: (202) 357–9794

Purpose of Committee: To carry out Committee of Visitors (COV) review of the Metallurgy, Polymers, and Ceramics & Electronic Materials Programs.

Agenda: COV Review of the Metallurgy, Polymers, Ceramics and Electronic Materials Programs, including examination of decisions on proposals, reviews, and other privileged materials.

Reason for Closing: The oversight committee's review of proposal actions will include privileged intellectual property and personal information that could harm individuals if it were disclosed and predecisional intra-agency records not available by law. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would improperly be disclosed.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30339 Filed 12–26–90; 8:45 am]

BILLING CODE 7555–01–M

Division of Microelectric Information Processing Systems Advisory Committee; Meeting

The National Science Foundation announces the following meeting:

Name: Division of Microelectronic Information Processing Systems Advisory Committee.

Date and Time: January 17, 1991 8:30 a.m.–5 p.m. January 18, 1991 8:30 a.m.–3 p.m.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC, Conference Room 540.

Type of Meeting: Open.

Contact Person: John R. Lenmann, Deputy Division Director, Microelectronic Information Processing Systems National Science Foundation, 202–357–7853.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To discuss the content of the Division's program goals and objectives and to advise on areas and priorities, new initiatives and other topics of interest to the Division.

Agenda: Overview of the Division since the last meeting. Continuation of strategic planning for initiatives.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30334 Filed 12–26–90; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Ocean Sciences (ACOS); Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS)

Date and Time: January 23, 1991—8:30 a.m. to 5 p.m., January 24, 1991—8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, NW, Washington, DC 20550; Rooms 1242 & 1243.

Type of Meeting: Open.

Contact Person: Dr. M. Grant Gross, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, DC—Telephone: 202/357–9639.

Summary Minutes: May be obtained from the contact person.

Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF Division of Ocean Sciences.

Agenda: The Committee will hold morning and afternoon Sessions on both days. Following opening remarks and general introductions—the Committee will hear several presentations and status reports of current and topical interest from various officials and representatives from NSF, other departments and agencies, and other organizations active in ocean science matters. The Committee will also hear reports from subcommittees ranging from Manpower to Oversight Review and determine a proper course of action based on the information and circumstances presented. The committee will also discuss scheduled revisions of the Long-Range Plan for Ocean Sciences and formulate guidance and direction for the continuing planning process. The Committee will also conduct necessary administrative functions in accordance with established custom and practice with respect to: Approval of the minutes of the previous meeting; determination of time and place of the next meeting; as well as any other appropriate business.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30341 Filed 12–26–90; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G Street NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, Room 208, 357–7363.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Agenda	Date(s)	Times	Room *
Special Emphasis Panel in Mechanical and Structural Systems	Review Proposals	01/17/91 1/18/91	9 am–3 pm	543 9 am–3 pm
Special Emphasis Panel in Social and Economic Sciences	PYI Application	01/18/91	8:30 am–5 pm	312
Special Emphasis Panel in Social and Economic Sciences	Faculty Awards for Women	01/11/91	8:30 am–5 pm	540–B
Special Emphasis Panel in Chemistry	Pres. Young Invest. Award	01/14/91 01/15/91	8 am–5 pm 8 am–5 pm	540

* At 1800 G Street, NW., Washington, DC

Committee Name	Date(s)	Time		Location
Special Emphasis Panel in Physics	01/15/91	12p–5pm	Level B	Princeton University, Princeton, NJ.
Agenda: Site Visit	01/16/91	8:30am–4pm	Cyclotron Conference Room	

[FR Doc. 90–30340 Filed 12–26–90; 8:45 am]
BILLING CODE 7555–01–M

Advisory Panel for Systematic Biology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: January 13 & 14, 1991; 8:30 a.m. to 5 p.m. each day.

Place: Room 536, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Terry L. Yates, Program Director, Systematic Biology, (202) 357–9588, room 215, National Science Foundation, Washington, DC 20550.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: December 20, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–30342 Filed 12–26–90; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (CYAPCO, the licensee), for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will establish a limit of 160 failed fuel rods (of any type) during operation for Cycles 16 and 17. The proposed limit of 160 failed fuel rods is consistent with the dose equivalent iodine limit of 1.0 microcurie per gram in the Technical Specifications (TS). The proposed action is in accordance with the licensee's amendment request dated June 25, 1990 with supplemental information proivided by letter dated July 19, 1990.

The Need for the Proposed Action

During the refueling for Cycle 16 CYAPCO determined that 456 fuel rods had failed during Cycle 15 operation. The use of ultrasonic testing was used to determine the failed rods and could be performed with the fuel assemblies intact. The cause of the failures was determined to be debris induced and a significant number of rods were degraded but not failed. The only method to determine degradation (throughwall wear) is eddy current testing (ECT). To ECT a fuel rod, the fuel rod must be pulled from the assembly and inserted through a ECT test probe. The licensee determined that to ECT 20,000 rods was prohibitive in time and cost and proposed the use of statistical sampling to estimate the number of degraded rods and percentage of throughwall wear. In addition CYAPCO contracted their fuel vendor (Babcock & Wilcox) to test the fuel rods. The results of the vendor testing was that damaged fuel rods subjected to limiting mechanical loading would not fail with defects up to 90% throughwall wear. Based on the statistical analyses 375 rods with greater than 20% throughwall wear were reinserted in the core and approximately 50 rods could have greater than 90% throughwall wear. To assure that should any reinserted rods fail, that the number of failed rods is consistent with TS specific activity limits, the licensee has proposed a new TS that will limit the number of failed rods to 160.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. The impact of the above change is to add an additional limitation (160 failed fuel rod limit) which is consistent with the TS specific activity limit of TS assuming that all of the rod failures conservatively release iodine in the traditional manner. The Cycle 15 experience with the debris induced failures is that this failure mode releases very little iodine until depressurization. The TS change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed TS amendment.

With regard to potential non-radiological impacts, the proposed amendment does involve features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the amendment would be to deny the amendment request. Such action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letters dated June 25 and July 19, 1990. These letters are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC., and at the Russell Library, 123 Broad Street, Middletown Connecticut 06547.

Dated at Rockville, Maryland this 12th day of December 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30318 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Environmental Assessment and Finding of No Significant Impact; Public Service Co. of Colorado

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the emergency preparedness requirements of 10 CFR 50.54(q) to the Public Service Company of Colorado (PSC or the licensee) for the Fort St. Vrain Nuclear Generating Station (FSV).

Environmental Assessment

Identification of Proposed Action

The exemption will delete the requirements for offsite emergency response in the Emergency Response Plan.

FSV was permanently shutdown on August 18, 1989 and partial reactor defueling completed on February 7, 1990. The reduced fuel quantity in the core combined with physical and administrative restrictions on control rod movement prevents FSV from being taken critical or operating.

Need for Proposed Action

The exemption is needed to eliminate requirements that were appropriate for an operating plant but are not needed at the permanently shutdown FSV facility. Granting the proposed exemption would relieve PSC from the unnecessary financial burden of performing offsite emergency preparedness activities and planning as required by 10 CFR 50.54(q).

Environmental Impact of the Proposed Action

The proposed action to delete requirements for, offsite emergency planning and response will have no environmental impact because FSV is permanently shutdown and the worst case accident would result in radiation exposures that were less than the Environmental Protection Agency's (EPA) Protective Action Guides. The licensee's analysis demonstrated that the potential risk to the public is now significantly reduced and the range of credible accidents and accident consequences are limited after the permanent shutdown and during the defueling of FSV. The worst case accident for this facility is the dropping of a loaded spent fuel shipping cask in the reactor building. The licensee's analysis showed a two hour exposure of 0.19 mrem whole body gamma dose at 100 meters. PSC concluded that based upon the consequences of this worst case accident, the highest emergency classification that can occur is an Alert. Therefore, it would be appropriate to reduce the scope of the FS emergency preparedness plan by eliminating offsite emergency response, while maintaining the emergency response capability necessary for onsite response to an Alert emergency classification.

The NRC staff has independently calculated the offsite dose resulting from a fuel handling accident and determined that the two hour whole body gamma dose would be 0.3 mrem at 100 meters. This value agrees with the licensee's exposure dose and is a small fraction of the EPA's Protective Action Guideline of one (1) Rem whole body gamma dose from exposure to airborne radioactive materials. Under these circumstances, the staff has determined that the offsite emergency response plan is not required.

In addition, the requested exemption would not authorize construction or operation, and would not authorize a change in licensed activities or effect changes in the permitted types or amounts of radiological effluents. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission concluded that there are no measurable environmental impacts associated with the proposed exemption, alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative to the exemption is to require the licensee to maintain both its onsite and offsite emergency plans consistent with the requirements of 10 CFR 50.54(q). However, the Commission has determined that there are no credible accidents which could result in a radiological release which would require protective actions for the public. Requiring the maintenance of both its onsite and offsite emergency plans consistent with the requirements of 10 CFR 50.54(q) would impose an unnecessary financial burden and would not enhance protection of the public or the environment.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered

in the Final Environmental Statement for FSV.

Agencies and Persons Consulted

The licensee initiated this exemption action. The NRC staff is reviewing their request. No other agencies or persons were consulted.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon this environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the licensee's application dated June 15, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

Dated: at Rockville, Maryland this 19th day of December 1990.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30319 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Amendment No. 78 of Facility Operating License No. DPR-34; Public Service Co. of Colorado, Fort St. Vrain Nuclear Generating Station

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-34 for the Fort St. Vrain Nuclear Generating Station (FSV). FSV is licensed by Public Service Company of Colorado (PSC). The amendment would revise the license to delete certain security requirements that are no longer necessary for a nuclear facility which is in a shutdown condition such as Fort St. Vrain.

Environmental Assessment

Identification of Proposed Action

The amendment will modify security requirements to eliminate certain vital areas and equipment, systems and procedures that are unnecessary for a nuclear facility that is in shutdown condition such as Fort St. Vrain.

FSV is a 842 megawatt (thermal) high temperature gas cooled reactor that operated commercially from July 1, 1979 to its final shutdown on August 18, 1990. FSV is located near Plattesville in Weld County Colorado. The licensee has proposed to amend Facility Operating License No. DPR-34 to delete authority to operate the FSV reactor at any power level as a first step in decommissioning FSV. A confirmatory order dated May 1, 1990 revised license No. DPR-34 to prohibit PSC from taking FSV reactor criticality, and prohibit operation of the facility at any power level.

Need for Proposed Action

The amendment is needed to change the Physical Security Plan which was appropriate for an operating plant but not for a facility in a shutdown condition such as the FSC Facility.

Environmental Impact of the Proposed Action

The proposed action will have no environmental impact because FSV is shutdown, one third of the fuel has been removed from the core, PSC is not allowed to take the reactor to criticality or operate it at any power level and potential offsite exposures from accidents are reduced to less than Environmental Protection Agency (EPA) protective action guide levels.

The licensee's analysis demonstrated that the potential risk to the public is now significantly reduced and the range of credible accidents and accident consequences are limited after the shutdown and during the defueling of FSV. The worst case accident for this facility is the dropping of a loaded spent fuel shipping cask in the reactor building. The licensee's analysis showed a two hour exposure of 0.19 mrem whole body gamma dose at 100 meters for that situation.

The NRC staff has independently calculated the offsite dose resulting from a fuel handling accident and determined that the two hour whole body gamma dose would be 0.3 mrem at 100 meters. This value agrees with the licensee's exposure dose and is a small fraction of the EPA's Protective Action Guideline for one (1) Rem whole body gamma dose from exposure to airborne radioactive materials.

The staff has also determined that the proposed change to the Physical Security Plan involves no increase in the amounts, and no significant change in the types of any effluents that may be released offsite and that there would be no increase in individual or cumulative occupational radiation exposures.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission has concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for this proposed action.

For further details with respect to this action, see the licensee's request for a license amendment dated June 6, 1990 as supplemented September 14, 1990. These documents are available for inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

Dated at Rockville, Maryland, this 19th day of December 1990.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30320 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co.; and the Cleveland Electric Illuminating Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensee), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 located in Ottawa County, Ohio.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would extend the expiration date of Facility Operating License No. NPF–3 for Davis-Besse by about 6 years from its present date of March 24, 2011, to April 22, 2017. The latter date would be 40 years from the date of issuance of the operating license, whereas the earlier date is 40 years after issuance of the construction permit (CP). No other aspects of the license, including the existing license conditions, the plant Technical Specifications (appendix A) and the environmental specifications (appendix B), would be changed.

The proposed action is in accordance with the licensee's application for amendment dated May 31, 1990, supplemented on December 17, 1990.

The Need for the Proposed Action

The proposed change in the OL expiration date is needed to provide a stable block of power production in the service areas of Toledo Edison and its sister plant, the Perry Nuclear Power Plant, Unit 1, thereby enhancing the economic security of the region. Additionally, the proposed extension of the expiration date will also provide an economic benefit to the region in that it will defer the costs of replacing the existing generating capacity of the Davis-Besse facility. Finally, the northern Ohio region will benefit from the continuation of the Davis-Besse facility in the local tax base as well as by the local employment the plant provides.

Environmental Impacts of the Proposed Action

The NRC staff has reviewed the potential environmental impact of the proposed change in the expiration date of the Davis-Besse OL. This evaluation considered the previous environmental studies for this facility, including the "Final Environmental Statement Relating to the Operation of the Davis-Besse Nuclear Power Station (DBNPS) Unit 1" (FES), dated October 1975, and more recent NRC policy.

Radiological Impacts

The present projected cumulative population for the year 2010 has decreased significantly from prior estimates. For example, the cumulative population within a 50-mile radius of the Davis-Besse facility in the states of Ohio and Michigan is now projected to be about 4,030,000 in 2010, as opposed to an earlier projection of about 7,860,000. While this significant decrease in the projected cumulative population within a 50-mile radius may be modified with the passage of time, it is reasonable to conclude that the principal factors affecting this long-term population decrease will continue. This can be seen by noting that over 80% of the decrease in the 50-mile radius cumulative population around the Davis-Besse facility is projected to occur in the Michigan counties to the south and west of the Detroit, Michigan, metropolitan area. This decrease reflects the increasing geographical dispersion of the auto industry away from Detroit and is a trend that is not expected to change over the next two decades.

To the extent that the prior industrial base in northern Ohio was dependent on the automotive sector of the regional economy as well as the steel industry centered around Cleveland, Ohio, it is reasonable to conclude that the principal factors affecting the projected long-term population decrease in northern Ohio will not be reversed over the next two decades.

On this basis, the demographic distribution projections used in the radiological analyses of the FES for the projected 40-year lifetime of the Davis-Besse facility (i.e., until the year 2011) can be considered to be a conservative upper bound for the cumulative population around the DBNPS for the year 2017.

The NRC site requirements for a nuclear power plant are contained in 10 CFR part 100 and specify certain criteria to be considered when evaluating proposed sites. Specifically, the relevant site criteria that are potentially affected by the proposed license amendment are contained in § 100.10(b) of 10) CFR part 100 which requires consideration of the population density and use characteristics of the site environs, including the exclusion area, the low population zone and the population center distance.

As discussed above, the projected cumulative population around the DBNPS is expected to decrease significantly over the next 20 years. This population decrease is also projected to occur in Ottawa County, Ohio, though this projected decrease represents a much lower percentage change than that projected for the adjacent counties in Ohio and Michigan. The prior projected population for Ottawa County was about 44,100 for the year 2010 as opposed to the latest estimate of about 35,200, a decrease from the earlier projection by about 20%. Since most of the cumulative population that would be considered in evaluating the site characteristics per 10 CFR part 100 is in Ottawa County, and the projected population in this county is expected to be lower during the 6 years contemplated in the extension of the Davis-Besse OL expiration date than that in the NRC staff's previous environmental evaluation of the radiological consequences in the FES, the staff's conclusions in Chapter 7 of the FES remain valid and, therefore, unaffected by the proposed license amendment. Specifically, the site requirements of 10 CFR part 100 are now and would still be met with regard to the Exclusion Area Boundary, the Low Population Zone and the nearest population center distance.

The net annualized environmental impacts attributable to the uranium fuel cycle which form the basis for Table S–3 of 10 CFR part 51 remain unchanged by the proposed license amendment. The release of radioactive effluents from the DBNPS assumed in the FES remains valid in that the assumed values have been demonstrated by actual plant operating data to be conservative, except for C–14, which operating data show to be 10 percent above the value estimated in the FES. These values are shown in Table 2 of the licensees' submittal of May 31, 1990. C–14 is discussed in the submittal of December 17, 1990. These radioactive effluents are continuously monitored in accordance with the DBNPS Technical Specifications so as to detect any degradation of the plant's fuel elements and equipment and the proposed extension of the OL expiration date is not expected to have any impact on the radioactive effluents.

The environmental impacts attributable to transportation of fuel to, and waste from, the DBNPS with respect to normal conditions of transport and possible accidents in transport is likely to remain about the same during the proposed extended period of operation (i.e., from March 2011 to April 2017). While there are differences between the uranium fuel cycle considered in the DBNPS FES from the present and projected fuel cycles, these differences tend to cancel each other. The DBNPS now projects an 18-month fuel cycle as opposed to the annual fuel cycles assumed in the model of a light water reactor used in the FES analysis. This requires the transport of fewer fuel assemblies over the life of the plant but with a higher fuel enrichment. Another offsetting factor affecting the original FES analysis is that fuel reprocessing was originally assumed whereas the present and future plans for plant operation do not involve reprocessing. Rather, spent fuel elements are presently stored onsite for an indefinite period, thereby significantly reducing

the amount of radioactivity in the spent fuel elements in the event they are shipped offsite. The impact of this extended onsite storage is to reduce the environmental effect of transporting uranium fuel elements to and from the DBNPS.

The net effect of these changes from the original assumptions in the FES is that fewer fuel elements will be shipped into the plant during its proposed extended lifetime and fewer fission products will be shipped out. The proposed extension of the operating license should not affect this conclusion.

With regard to normal plant operation, the licensee complies with the NRC guidance and requirements for keeping radiation exposure "as low as is reasonably achievable" (ALARA) for occupational exposures and for radioactivity in effluents. Technical Specifications are in place to ensure continued compliance with these requirements during any additional years of facility operations.

Nonradiological Impacts

With regard to the nonradiological impacts, the proposed extension of the Facility Operating License will not cause a significant increase in the nonradiological impacts and will not change any conclusions reached by the staff in the FES. Therefore, the staff concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on November 29, 1990 (55 FR 49582). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce the environmental impacts attributable to this facility. However, it would result in an adverse economic impact on the service area of the Davis-Besse facility and northern Ohio in the time frame of March 24, 2011, to April 22, 2017, which is the proposed extension period.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of the Davis-Besse Facility.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated May 31, 1990, and the supplement dated December 17, 1990, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 21st day of December 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30356 Filed 12-26-90; 8:45am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safefguards will hold a meeting on January 10-12, 1991, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on November 21, 1990.

Thursday, January 10, 1991, Room P-110, 7920 Norfolk Avenue, Bethesda, Md.

8:30 a.m.-8:45 a.m.: Chairman's Remarks (Open). The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.-10:15 a.m.: Proposed Final Rule 10 CFR part 55, Fitness for Duty Requirements for Licensed Operators (Open). The Committee will be briefed by and hold discussions with representatives of the NRC staff regarding this proposed final rule, including resolution of comments received during the public comment period. Proposed ACRS comments and recommendations will be discussed as appropriate.

10:30 a.m.-12:30 p.m.: Proposed Resolution of GSI-29, Bolting Degradation or Failures in Nuclear Power Plants (Open). The ACRS Members will review and comment on proposed resolution of Generic Safety Issue 29, "Bolting Degradation or Failures in Nuclear Power Plants." Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

1:30 p.m.-2:45 p.m.: Meeting with Director, NRC Office of Nuclear Regulatory Research (Open/CLosed). A briefing by and discussion with the Director, Office of Nuclear Regulatory Research, NRC, will be held regarding the impact of budgeting decisions on the NRC safety research program and activities of the Office of Nuclear Regulatory Research.

Portions of this session will be closed as necessary to discuss information the premature release of which would be likely to significantly frustrate the NRC in its ability to perform its statutory function.

3:00 p.m.-4: p.m.: Nuclear Power Plant Operating Experience and Events (Open). The Committee will hear and discuss a report by representatives of the NRC staff regarding operating experience and events at nuclear power plants including a scram which occurred at the Quad Cities Nuclear Station, Unit 2 during performance of a special turbine test.

4:00 p.m.-5:30 p.m.: Certification of Standardized Nuclear Power Plant Designs (Tentative) (Open). A briefing by and discussion with representatives of the nuclear industry will be held regarding comments on the level of design detail proposed by the NRC staff for certification of standardized nuclear power plant designs (SECY-90-377). Representatives of the NRC staff will participate as appropriate. The members will discuss proposed comments and recommendations to the NRC as appropriate.

5:30 p.m.-6:00 p.m.: Preparation of ACRS Reports (Open/Closed). The Committee will discuss proposed reports to the NRC regarding containment design criteria for future nuclear plants and to the U.S. Congress on the NRC research program and budgetary impacts.

Portions of this session will be closed as necessary to discuss information the premature release of which would be likely to significantly frustrate the NRC in its ability to perform its statutory function.

Friday, January 11, 1991

8:30 a.m.–9:30 a.m.: Proposed Revision of 10 CFR part 20, Standards for Protection Against Radiation (Open). A briefing by and discussion with representatives of the NRC staff will be held regarding the proposed revision of 10 CFR part 20 as reflected in SECY–90–387.

9:45 a.m.–10:45 a.m.: Licensing Requirements for Large Irradiators (Open). A briefing by and discussion with representatives of the NRC staff will be held regarding radiation safety and licensing requirements for use of large irradiation facilities using radioactive materials.

10:45 a.m.–11:30 a.m.: ACRS Future Activities (Open). The Committee will discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

11:30 a.m.–12:00 Noon: ACRS Subcommittee Activities (Open). The Committee will hear and discuss the status of designated subcommittee activities regarding assigned duties, including a report on thermal-hydraulic phenomena related to the interfacing systems loss-of-coolant accidents.

1:00 p.m.–4:30 p.m.: Preparation of ACRS Reports (Open/Closed). The Committee will disucuss proposed ACRS reports regarding items considered during this meeting, including a report to the U.S. Congress on the NRC safety research program and budgetary impacts.

Portions of this session will be closed as necessary to discuss information the premature release of which would be likely to significantly frustrate the NRC in its ability to perform its statutory function.

4:30 p.m.–5:00 p.m.: Appointment of ACRS Members (Open/Closed). A report will be presented regarding the status of nominations for candidates proposed for appointment to the Committee.

Portions of the session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

5:00 p.m.–5:30 p.m.: ACRS Activities (Open). The Committee will discuss a proposed revision of the ACRS Bylaws and related administrative issues as appropriate.

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open/Closed). The Committee willl discuss proposed ACRS reports regarding items considered during this meeting, including a report to the U.S. Congress on the NRC safety research program and budgetary impacts and items which were not completed at previous meetings as time and availability of information permit.

Portions of this session will be closed as necessary to discuss information the premature release of which would be likely to significantly frustrate the NRC in its ability to perform its statutory function.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1990 (55 FR 40249). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting noted above to discuss information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)) and information the premature release of which would be likely to significantly frustrate the NRC in the performance of its statutory function (5 U.S.C. 552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 8:00 a.m. and 4:30 p.m.

Dated: December 21, 1990.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 90–30321 Filed 12–26–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322]

Long Island Lighting Co., Shoreham Nuclear Power Station, Unit 1; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Decision regarding three Petitions filed requesting action with regard to the Shoreham Nuclear Power Station, Unit 1.

On July 14, 1989, James P. McGranery, Jr., filed a Petition on behalf of the Shoreham-Wading River Central School District (School District) with the Executive Director for Operations for the Nuclear Regulatory Commission requesting that certain actions be taken. That Petition was supplemented by submittals dated July 19 and July 21, 1989. By Petition dated July 26, 1989, Mr. McGranery, on behalf of Scientists and Engineers for Secure Energy, Inc. (SE2), requested that the same action be taken on the same bases as that which he requested on behalf of the School District. On July 31, 1989, and January 23, April 5, May 4, November 14, and November 29, 1990, additional supplements to the Petitions filed by the School District and SE2 were submitted. Briefly summarized, the Petitions requested that certain immediately effective orders be issued to the Long Island Lighting Company (LILCO), including a temporary, immediately effective order to cease and desist from all activities related to the defueling and destaffing of the facility and return to the *"status quo ante,"* pending further consideration by the Nuclear Regulatory Commission (Commission); and that other action be taken, including announcing the Commission's intention to fine the licensee a substantial amount per day, and issuing a Notice of Violation and proposed civil penalty and a remedial action plan. Briefly summarized, the bases set forth for the Petitions were that: (1) There are potentially hazardous conditions arising from unreviewed safety questions, violations of the licensee's full-power operating license, and unreviewed environmental questions; and (2) that LILCO is undertaking a course of action that will willfully avoid the full and effective Commission consideration of the environmental consequences of licensee action and that it is contrary to

the provisions of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) guidelines, and the Commission's regulations by presenting for regulatory review defueling and destaffing plans that are the initial actions in a single course of action to transfer the license for Shoreham and to decommission the plant.

On August 4, 1989, Leonard Bickwit, Jr., submitted a Petition on behalf of the Long Island Association requesting action similar to that requested by Mr. McGranery and on similar bases. Specifically, the Long Island Association's Petition requested that the Commission order the suspension of LILCO's actions in furtherance of a "minimum posture condition" at Shoreham, undertake an investigation into whether license violations have occurred, initiate an environmental review of the planned decommissioning of Shoreham, and devise a process to consider Shoreham issues. As grounds for the requests, the Petitioner asserted that LILCO has taken actions that are inconsistent with the premises underlying its license, including actions that constitute changes to its facility without the Commission's previous approval and that give rise to an unreviewed safety question, having allowed New York State authorities to assume unauthorized control over the Shoreham license, and having commenced *de facto* decommissioning, and the LILCO is taking actions that will support the ultimate filing of a decommissioning application, mandating that the Commission perform an environmental review under NEPA and the regulations of the Council on Environmental Quality.

A notice was published in the Federal Register indicating that the Commission was considering the Petitioners' requests, 54 FR 36077 (August 31, 1989).

The Director has now completed his evaluation of the School District and SE2 Petitions and the Petition filed by the Long Island Association. The Director has determined that the Petitioners' requests should be denied for the reasons given in the "Director's Decision Pursuant to 10 CFR 2.206" (DD-90-8). This document is available for inspection and copying in the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room for the Shoreham Nuclear Power Station, Unit 1, at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786-9687.

A copy of the Decision will be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the Decision will become the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 20th day of December 1990.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30323 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Impact Survey Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of SECY 90-347 "Regulatory Impact Survey Report" (dated October 9, 1990) for public comment. In particular, the NRC invites comment on the issue of consistency and uniformity among its regions and among its inspectors. SECY 90-347 is available in the NRC Public Document Room, 2120 L Street, Washington, DC, telephone (202) 634-3273. In the fall of 1989, the staff initiated the regulatory impact survey (RIS). This effort consisted of three surveys and was patterned after a survey conducted in 1981 to determine utility views on the effect of the large number of NRC regulatory initiatives and requirements imposed in the wake of the accident at Three Mile Island Unit 2. As a result of the 1981 survey, NRC made a number of changes in its organization and regulatory practices.

This RIS was performed to obtain the perceptions of the industry and regulatory staff of the effect of NRC's current activities on the safe operation of nuclear power plants, to assist the staff in determining if its regulatory programs require modification.

SECY 90-347 contains the senior management's evaluation of the results of all three surveys and the proposed actions to respond to the identified concerns.

In accordance with Nuclear Regulatory Commission direction given in a staff requirements memorandum dated November 29, 1990, the staff is requesting public comment on the proposed corrective action presented in the staff paper, SECY-90-347.

DATES: The comment period expires January 28, 1991.

ADDRESSES: Send written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (Attention: Docketing and Service Branch). Hand deliver comments to 11555 Rockville Pike, Rockville, MD between 7:30 a.m. and 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Jon B. Hopkins, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-1287.

Dated at Rockville, Maryland, this 20th day of Dec. 1990.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90-30324 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-528, 50-529, and 50-530]

Arizona Public Service Co., et al., Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-41, NPF-51, and NPF-74, issued to Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power and Southern California Public Power Authority (licensees), for operation of the Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3 located in Maricopa County, Arizona. The request for amendments was submitted by letter dated November 13, 1990.

The proposed changes would increase the allowable setpoint tolerance for the pressurizer safety valves from 2500 psia plus or minor 1% to 2500 psia plus 3% or minus 1%; increase the allowable setpoint tolerance for the main steam safety valves from 1250 psig and 1315 psig plus or minus 1% to the same settings plus or minus 3%; reduce the minimum required feedwater flow from 750 gpm to 650 gpm; and reduce the response time for the high pressurizer pressure reactor trip from 1.15 seconds to 0.5 seconds.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act) and the Commission's regulations.

By January 28, 1991, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Idenfication Number 3737 and the following message addressed to James E. Dyer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Arthur C. Gehr, Esq., Snell and Wilmer, 3100 Valley Center, Phoenix, Arizona 85073, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the facts specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendments after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 13, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland this 17th day of December 1990.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 90–30325 Filed 12–26–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp.; Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR–16, issued to GPU Nuclear Corporation (GPUN, the licensee), for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The amendment would revise Technical Specification Table 4.13–1, Item 1 to extend the channel calibrations for the Primary and Safety Valve Position Indicator (Primary Detector), the Relief and Safety Valve Position Indicator (Backup Indications),

and the Relief Valve Position Indicator (Common Header Temperature Element) from once per 18 months to once per 24 months. The legend to Table 4.13–1 is revised for designation "B" to identify once per 24 months.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 28, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factor specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 17, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room, Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 20th day of December 1990.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Acting Director, Project Directorate I–4, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–30326 Filed 12–26–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp.: Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment

to Provisional Operating License No. DPR-16, issued to GPU Nuclear Corporation (GPUN, the licensee), for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The amendment would revise Technical Specifications to allow draining of the 15,000 gallon Emergency Deisel Generator (EDG) fuel oil storage tank for the purpose of internal inspection and, if required, replacement during the upcoming (13R) outage. Inspection of the tank internals cannot be accomplished while it is filled, and draining of the tank will cause the EDGs to become inoperable, which is in conflict with Technical Specification 3.7.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By Jan 28, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested person should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be pemitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificaity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petition shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC, 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 7, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room, Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 20th day of December 1990.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Acting Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30327 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

South Carolina Electric & Gas Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

[Docket No. 50-395]

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by South Carolina Electric & Gas Company (the licensee) for an amendment to Facility Opportunity License No. NPF-12 issued to the licensee for operation of the V. C. Summer Nuclear Station, Unit No. 1, located in Jenkinsville, South Carolina. A Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Determination and Opportunity for Hearing was published in the **Federal Register** on May 3, 1989 (54 FR 18960).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to allow one or more of the feedwater isolation valves to be inoperable in Modes 2 and 3 provided the affected isolation valves are maintained closed and to allow one or more of the main steam line isolation valves to be inoperable in Modes 2 and 3 provided the affected isolation valves are maintained closed.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated December 19, 1990.

By January 28, 1991, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated April 5, 1989, and July 21, 1989, as modified on September 21, 1989, and (2) the Commission's letter to the licensee dated December 19, 1990.

These documents are available for public inspection at the Commission's Public Document Room and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 20th day of December 1990.

For the Nuclear Regulatory Commission.

Ronnie H. Lo,

Acting Director, Project Directorate II-1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-30328 Filed 12-26-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28709; File No. SR-NASD-90-59]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Small Order Execution System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1990, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC"), and amended on November 20, 1990, the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to expand the definition of "professional trading account" in the Rules of Practice and Procedure for the Small Order Execution System ("SOES") [1], to include criteria in addition to "day trading."

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing in SR-NASD-90-59, as amended, to expand the definition of "professional trading account" to include the criteria listed below as factors that could be taken into consideration when reviewing for professional trading, as that term relates to abusive practices and activities in SOES. The existence of any one of these conditions does not mean that an account will be classified as a professional trading account. Rather, they are factors to be considered by market surveillance when making such a determination. The existence of several of these factors could result in the account being classified as a professional trading account if the following SOES abuses are noted:

- Excessive frequency of short-term trading;
- Excessive frequency of short sale transactions;
- Existence of discretion; or
- Direct or physical access to SOES execution capability or to NASDAQ Level 2 ("NQDS") service.

Currently, the term "professional trading account" in the SOES Rules refers only to day trading and is defined as an account in which five or more day trades have been executed through SOES during any trading day. The term also includes an account in which there has been a professional trading pattern in SOES as demonstrated by: (1) A pattern or practice of day trading; (2) executing a high volume of day trades in relation to the total transactions in the account; or (3) executing a high volume of day trading in relation to the amount and volume of securities held in the account. Therefore any other type of professional trading that is not related to day trading that result in abuses and misuses of SOES is beyond the scope of existing rules.

The NASD believes that linking "professional trading accounts" only to "day trading" severely limits the NASD's ability to apply the rule to accounts that make professional use of a system designed exclusively for small, retail investors. In has been the

[1] *NASD Securities Dealers Manual* CCH ¶ 2451 ("SOES Rules").

Association's experience that misuse of SOES by certain members is caused by other types of objectionable practices that exhibit professional trading characteristics outside of the context of day trading.

For example, the NASD's Market Surveillance Department has received numerous complaints from member firms alleging that they have been victimized by abusive practices that relate to "being SOESed" on news or while in the process of updating their quotes. There are certain order entry firms or market makers that trade through SOES on behalf of accounts over which the trader exercises discretion, thus using the system ostensibly for retail customers. Specifically, there are firms that allow customers to be physically present in trading rooms in close proximity to the trader or in direct contact with a trader through an open telephone line. These individuals may have access to electronic news and quotation services and place orders through SOES based upon news reports or before the last market maker at the inside has changed its quote to reflect market movement. Also, although the subject of intense scrutiny by Market Surveillance, the NASD has reason to believe that certain order entry firms or market makers that "pick off" SOES market makers may be executing short sales on negative news while relying on blanket representations from their clearing firms that they can arrange to borrow the particular security when covering the short position.

In light of the abusive practices described above, the NASD believes it is necessary to include other activities and characteristics that should be taken into consideration when considering whether an account is a professional trading account. The proposed amendment to the SOES Rules would enable NASD Market Surveillance, when SOES abuses are detected, to review and consider the pattern and practice of trading in light of overall activity and excessive frequency of short-term trading, excessive frequency of short sale transactions, existence of discretion in the account or accessibility to the SOES execution capability.

It should be emphasized that these criteria will not be automatically applied to all active accounts; rather Market Surveillance will make determinations only after a pattern or practice of "professional" use of SOES has been detected. While some of these criteria encompass legitimate practices, the Market Surveillance Department needs guidelines in examination of suspect trading activity in SOES.

The intent of the rule is to trigger a review only after noting suspicion trading patterns or frequency of such activities, and to expand the criteria to be applied in reviewing account activities. After analyzing trading in suspect accounts, Market Surveillance, in conjunction with the Chairman of the Market Surveillance Committee, would be able to prohibit access to the SOES for an account evidencing characteristics of professional trading. The amendment to the SOES Rules also assures that any member aggrieved by a professional account designation has an opportunity to have the decision reviewed by the Market Surveillance Committee and the Board of Governors.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. In pertinent part, Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market."

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of the notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by January 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: December 19, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-30220 Filed 12-26-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17909; 811-5043]

Security First Variable Life Account; Application

December 20, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Security First Variable Life Account.

RELEVANT 1940 ACT SECTIONS: Order requested under section 8(f) and Rule 8f-1 thereunder.

SUMMARY OF APPLICATION: Applicant requests an order pursuant to section 8(f) of the 1940 Act and Rule 8f-1 thereunder declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on October 30, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on January 14, 1991. Request a hearing in writing, giving the nature of your interest, the reason for the request, and

the issues contested. A person requesting a hearing must serve the Applicant with the request either personally or by mail, and also send such request to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Richard C. Person, Esq., Security First Life Insurance Company, 11365 West Olympic Boulevard, Los Angeles, California 90064.

FOR FURTHER INFORMATION CONTACT: Evelyn C. Malone, Legal Technician, (202) 272–3011 or Barry D. Miller, Senior Staff Attorney, (202) 272–3012, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, a unit investment trust, is a separate account of the Security First Life Insurance Company. The Applicant filed a Notification of Registration on Form N8–A and a registration statement pursuant to section 8(b) of the 1940 Act on March 3, 1987. The Applicant also filed a registration statement on Form S–6 under the Securities Act of 1933 on March 3, 1987 (File No. 33–12366) that was declared effective on May 3, 1988.

2. Applicant has never engaged in a public offering of the variable life insurance policies which were the subject of the Form S–6 registration statement. As a result, there are no public securityholders of the Applicant.

3. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant has no assets and has no debts or liabilities that remain outstanding.

5. Applicant is not now engaged, nor does it intend to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–30219 Filed 12–26–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–17910; 811–4484]

Sower Series Fund, Inc.; Application

December 20, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for An Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Sower Series Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order under Section 8(f) of the 1940 Act declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 17, 1990, and amended on December 5, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 14, 1991 and should be accompanied by proof of service on Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 5900 O Street, Lincoln, Nebraska 68510.

FOR FURTHER INFORMATION CONTACT: L. Bryce Stovell, Staff Attorney, at (202) 504–2272, or Nancy M. Rappa, Senior Attorney, at (202) 272–2622, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from either the SEC's Public Reference Branch or the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, a Maryland corporation organized by the Ameritas Variable Life Insurance Company ("AVLIC"), is registered under the 1940 Act as an open-end diversified management company. Applicant's registration statement was filed on Form N–1A on November 15, 1985 and was declared effective on October 29, 1986. Applicant served as an underlying investment medium for Separate Account V (the "Separate Account"), a unit investment trust registered under the 1940 Act. The Separate Account funds certain variable universal life insurance policies (the "Policies") issued by AVLIC.

2. On January 25, 1990, AVLIC's Board of Directors resolved that (a) no Policies would be offered after March 1, 1990; (b) after March 1, 1990, the subaccounts of the Separate Account which invest in corresponding portfolios of the Applicant would no longer be an eligible allocation option for new purchasers or for the transfer of values of present Policy owners; and (c) AVLIC should apply for an order of the SEC permitting the substitution of shares of the Variable Insurance Products Fund (the "VIPF") for shares of Applicant in the subaccounts of the Separate Account (see Exhibit D).

3. On January 29, 1990, AVLIC and the Separate Account applied for an order from the SEC approving the substitution. On June 13, 1990, an exemptive order under Section 26 (b) of the 1940 Act was granted by the SEC (Investment Company Act Release No. 17531). Pursuant to that order, shares of the VIPF were substituted for shares of Applicant. AVLIC effected the transaction by redeeming the shares of Applicant attributable to Policy owners in the Separate Account and using the proceeds to purchase shares of the VIPF at net asset value.

4. On June 22, 1990, Applicant's Board of Directors unanimously approved a resolution authorizing AVLIC to take the necessary steps to effectuate the dissolution of Applicant.

5. As of the date of this filing, AVLIC is Applicant's sole shareholder. No assets attributable to Policy owners have been retained by Applicant. Only assets attributable to AVLIC ($1) have been retained in order to effectuate Applicant's dissolution.

6. All expenses associated with the liquidation and dissolution of Applicant were borne by AVLIC. Applicant is not a party to any litigation or administrative proceeding. Applicant has no debts or other liabilities outstanding and is not now engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs. Applicant states that upon deregistration it will file an application for dissolution under state law.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-30218 Filed 12-26-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended December 14, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket number: 47302.

Date filed: December 10, 1990.

Due date for answers, conforming applications, or motion to modify scope: January 7, 1991.

Description: Application of Delta Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a new or amended certificate of public convenience and necessity to permit Delta to provide foreign air transportation between the terminal point Atlanta, Georgia, intemerdiate points in the Federal Republic of Germany and the coterminal points Moscow, Leningrad and Tbilisi, U.S.S.R.

Docket number: 47318.

Date filed: December 14, 1990.

Due date for answers, conforming applications, or motion to modify scope: January 11, 1991.

Description: Joint Application of American Airlines, Inc. and Continental Airlines, Inc., pursuant to section 401(h) of the Act, and subpart Q of the Regulations, request that the Department approve the transfer to American of Continental's certificate authority for Route 550 between Seattle and Portland, on the one hand, and Tokyo and Osaka, on the other.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-30235 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During the Week Ended December 14, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47303.

Date filed: December 10, 1990.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 445 (Modification of General Increase in passenger fares (Comp Reso P 003m) within TC-1).

Proposed effective date: December 10, 1990.

Docket Number: 47304.

Date filed: December 10, 1990.

Parties: Members of the International Air Transport Association.

Subject: Telex dated November 29, 1990 Mail Vote 446.

Telex dated December 1990 declared MV446 adopted. (Modification of Japan-Europe experimental APEX fares).

Proposed effective date: December 20, 1990.

Docket Number: 47305.

Date filed: December 10, 1990.

Parties: Members of the International Air Transport Association.

Subject: TC2 Within Europe Expedited Resolutions R-1 to R-9.

Proposed effective date: January 1, 1991.

Docket number: 47306.

Date filed: December 11, 1990.

Parties: Members of the International Air Transport Association.

Subject: TC2 Reso/P 0944 dated December 4, 1990.

Within Europe Expedited Resos R-1 to R-6 intended effective date: February 1, 1991.

TC2 Reso/P 0945 dated December 4, 1990.

Within Europe Expedited Resos R-7 to R-12 intended effective date: March 1, 1991.

Docket number: 47307.

Date filed: December 11, 1990.

Parties: Members of the International Air Transport Association.

Subject: PSC/Reso/056 dated November 15, 1990 R-1 To R-43 Book Of Finally Adopted Resos/ Recommended Practices.

Proposed effective date: June 1, 1991.

Docket number: 47308.

Date filed: December 11, 1990.

Parties: Members of the International Air Transport Association.

Subject: TC2 Reso/P 0899 dated October 24, 1990. Europe-Middle East Resolutions R-1 To R-38.

Proposed effective date: April 1, 1991.

Docket number: 47309.

Date filed: December 11, 1990.

Parties: Members of the International Air Transport Association.

Subject: TC12 Reso/P 1269 dated October 1, 1990. Canada-Europe Resolutions R-1 To R-18.

Proposed effective date: March 1, 1991.

Docket number: 47310.

Date filed: December 11, 1990.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 448 (General Increase Reso from Nigeria).

Proposed effective date: December 15, 1990.

Docket number: 47313.

Date filed: December 13, 1990.

Parties: Members of the International Air Transport Association.

Subject: Mid Atlantic-Africa Resos R-1 To R-6. Mid Atlantic-Mideast Resos R-7 To R-16.

Proposed effective date: April 1, 1991.

Docket number: 47314.

Date filed: December 13, 1990.

Parties: Members of the International Air Transport Association.

Subject: TC3-Central/South America Resos R-1 To R-10.

North & Central Pacific Areawide Resos R-11 To R-17.

TC3 (Except Japan)-North America Resos R-18 To R-30.

Proposed effective date: April 1, 1991.

Docket number: 47315.

Date filed: December 14, 1990.

Parties: Members of the International Air Transport Association.

Subject: SNAC Mail Vote #86—Amends Reso No. 19. (USA to Switzerland weekend promotional fares).

Proposed effective date: January 1, 1990.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-30234 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-62-M

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Public Law 96-192, requires that the Department, as successor to the Civil Aeronautics Board, established a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80-2-69 established the first interim SFFL, and Order 90-11-18 established the currently

effective two-month SFFL applicable through November 30, 1990.

In establishing the SFFL for the two-month period beginning December 1, 1990, we have projected non-fuel costs based on the year ended September 30, 1990 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

These projections do not fully reflect the dramatic increase in fuel prices precipitated by the August Mid East crisis. However, the carriers have imposed fare surcharges, approved by the Department, to offset increased fuel costs. We except that future SFFL revisions will fully capture the additional expenses caused by rising fuel prices.

By Order 90-12-48 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic	1.4470
Latin America	1.5274
Pacific	1.8307
Canada	1.4661

For further information contact: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation:

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-30370 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

[Order 90-12-13]

Fitness Determination of Air L.A., Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Air L.A., Inc., continues to be fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than January 2, 1991.

FOR FURTHER INFORMATION CONTACT: Mrs. Janet A. Davis, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: December 18, 1990.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-30236 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-62-M

[Order 90-12-40]

Fitness Determination of Redwing Airlines, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Redwing Airways, Inc., fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than Januray 2, 1991.

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: December 18, 1991.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 90-30237 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-62-M

Maritime Administration

Invitation to Nonprofit Organizations To Apply for Assistance Establishing Memorials to Merchant Mariners: Change in Date for Application

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) published, on Wednesday, December 5, 1990 (55 FR 50267), an invitation to nonprofit organizations to apply for assistance in establishing memorials to merchant mariners. Interested organizations were invited to submit all relevant information to MARAD no later than March 31, 1991.

MARAD's authority to provide assistance to qualified organizations is found in section 709 of Public Law 101-595, enacted on November 16, 1990. The assistance to be provided will be a vessel or vessels from the National Defense Reserve Fleet (NDRF) that is to be scrapped. Pursuant to authority provided in section 704 of Public Law 101-595, MARAD is preparing to sell vessels in the NDRF that are candidates for scrapping. The Maritime Administrator has determined that it is necessary to learn, in a more expenditious manner, how many qualified organizations may seek one of these scrap candidates. Therefore, any nonprofit organization or any group of not less than two and not more than three nonprofit organizations which is interested in participating in this program, and believes it satisfies the necessary statutory conditions, is invited to submit all relevant information concerning their eligibility to MARAD's Vessel Transfer and Disposal Officer, at the address above, no later than January 15, 1991. Sufficient information must be submitted to establish eligibility in order for any organization to be considered further under this program.

FOR FURTHER INFORMATION CONTACT: Linda Somerville, Vessel Transfer and Disposal Officer, Maritime Administration, U.S. Department of Transportation, room 7324, 400 Seventh Street SW., Washington, DC 20590, telephone 202-366-5821.

Dated: December 21, 1990.

By Order of the Maritime Administration.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 90-30279 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

[Docket No. 90-40-IP-No. 1]

Cooper Tire & Rubber Co.; Receipt of Petition for Determination of Inconsequential; Noncompliance

Cooper Tire & Rubber Company (Cooper), of Findlay, Ohio has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, Federal Motor Vehicle Safety

Standard (FMVSS) No. 119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars," on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Paragraph S6.5(d) of Standard No. 119 requires that tires manufactured for use on vehicles other than passenger cars be labelled as follows:

Max. load _____ lbs at _____ psi cold

for those tires rated only for single load. Cooper manufactured and shipped 786 of its ST225/75R15 Cooper Travel Trac, Load Range D tires that do not comply with Standard No. 119. These tires were incorrectly stamped as follows:

MAX LOAD 2540 LBS AT 65 P.S.I. MAX. PRESS

The correct label for these tires is:

MAX. LOAD 2540 LBS. AT 65 P.S.I. COLD

The noncompliance is that the tires were stamped MAX. PRESS instead of COLD.

Cooper stated that the aforementioned tires comply with all other requirements specified in 15 U.S.C. 1421 and 49 CFR Part 571. Cooper also stated that the noncompliance was caused by Cooper's erroneous use of the language in FMVSS No. 109, instead of the use of language in FMVSS No. 119, in the tire molds for the ST225/75R15 Cooper Travel Trac. In support of its petition Cooper stated that the non-compliance is inconsequential to safety because the P.S.I. (pounds per square inch) stamped on the tire is correct for the maximum load indicated.

Interested persons are invited to submit written data, views and arguments on the petition of Cooper described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: January 28, 1991.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8

Issued on December 20, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-30238 Filed 12-26-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 20, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau of Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505-0106.

Form Number: None.

Type of Review: Extension.

Title: Iranian Transactions Regualtions.

Description: Submissions will provide U.S. Government with information to be used in administrating and enforcing sanctions against Iran.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,200 hours.

Clearance Officer: Dale A. Morgan, (202) 566-2693, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-30263 Filed 12-26-90; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 20, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Number: New.

Form Number: MHC-1 and MHC-2.

Type of Revew: New collection.

Title: Notice of Mutual Holding Company Reorganization (MHC-1); and Minority Stock Issuance Application (MHC-2).

Description: These information collections will apply to a new class of companies known as "mutual holding companies" and their subsidiaries. The collections are necessary (1) to fulfull statuory requirements, and (2) to facilitate review of transactions presenting risks.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 17.

Estimated Burden Hours Per Response: 400 hours.

Frequency of Response: On Occasion.

Estimated Total Reporting Burden: 6,450 hours.

Clearance Officer: John Turner, (202) 906-6840, Office of Thrift Supervision, 3rd floor, 1700 G Street NW., Washington, DC 20552.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-30264 Filed 12-26-90; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 20, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under

the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557–0081.
Form Number: FFIEC 031–034.
Type of Review:
Title: Reports of Condition and Income (Interagency Call Report)
Description: Reports are filed pursuant to 12 U.S.C. 161, 164 and 1823(j). Data are used to monitor the financial condition and earnings performance of individual banks as well as the entire banking industry. Data are also used for research, program planning, and OCC publications.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 4,100.
Estimated Burden Hours Per Response: 33 hours, 48 minutes.
Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 554,384.
Clearance Officer: John Ference, (202) 447–1177, Comptroller of the Currency, 5th floor, L'Enfant Plaza, Washington, DC 20219.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–30265 Filed 12–26–90; 8:45 am]

BILLING CODE 4810–33–M

Public Information Collection Requirements Submitted to OMB for Review

December 20, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0075.
Form Numbers: CF 7512C and CF 7512D.
Type of Review: Extension.
Title: Transportation Entry and Manifest of Goods, In-Bond Control Report.
Description: Customs Forms 7512C and 7512D are control cards used by importers, Customhouse brokers and carriers to show proof of delivery of merchandise entering the United States and being transported in bond to another port of destination in the United States.
Respondents: Businesses or other for-profit, small businesses or organizations.
Estimated Number of Respondents: 5,000.
Estimated Burden Hours Per Response: 25 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,170 hours.
Clearance Officer: Kathy Kormos, (202) 566–4019, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Mangement and Budget, room 3001, New Executive Office Buildng, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90–30266 Filed 12–26–90; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: December 20, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0916.
Form Number: None.
Type of Review: Extension.
Title: Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984.
Description: These temporary regulations provide rules relating to effective dates and other issues arising under sections 91, 223 and 511–561 of the Tax Reform Act of 1984.
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions.
Estimated Number of Respondents: 12,800.
Estimated Burden Hours Per Response: 3 hours, 27 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 6,500 hours.
OMB Number: 1545–1039.
Form Number: None.
Type of Review: Extension.
Title: 401(k) Arrangements Under the Tax Reform Act of 1986 and Nondiscrimination Requirements for Employee and Matching Contributions.
Description: The IRS needs this information to insure compliance with sections 401(k), 401(m), and 4979 of the Internal Revenue Code. Certain additional taxes may be imposed if sections 401(k) and 401(m) are not complied with.
Respondents: State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small Businesses or organizations.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–30267 Filed 12–26–90; 8:45 am]

BILLING CODE 4830–01–M

Fiscal Service

Bureau of the Public Debt

Privacy Act of 1974, as Amended; New System of Records

AGENCY: Fiscal Service, Bureau of the Public Debt, Treasury.

ACTION: Notice of new system of records: Treasury/BPD .007—Gifts to Reduce the Public Debt.

SUMMARY: The purpose of this document is to give notice under the provisions of the Privacy Act of 1974, as amended, of records maintained at the Bureau of the Public Debt—Gifts to Reduce the Public Debt. This system of records will be numbered Treasury/BPD .007. Public Debt's systems of records were last published on March 1, 1988, at 53 FR 6252. This system contains information on donors of gifts to reduce the public debt.

DATES: Comments must be received no later than January 28, 1991. The new system of records will become effective February 25, 1991, unless comments dictate otherwise.

ADDRESSES: Send any comments to D. Louise Bennett, Disclosure Officer, Bureau of the Public Debt, E Street Building, Room 553, Washington, DC 20239–0001. Copies of all written comments will be available for public inspection and copying at the Department of the Treasury Library, Room 5030, Main Treasury Building, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: D. Louise Bennett, Disclosure Officer (202) 376–4307.

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury may accept gifts of money, obligations included in the public debt, and other intangible personal property for the purpose of reducing the public debt. The statutory authority for receipt of such gifts is 31 U.S.C. 3113. The Bureau of the Public Debt deposits these gifts into an account for that purpose. These gifts are received from the public either directly or through the donor's Congressional or other representative. This system covers records of gifts to reduce the public debt received on or after October 1, 1984. Prior to October 1, 1984, this function was handled by the Financial Management Service. This system does not cover gifts sent to other agencies, such as gifts sent with one's Federal income tax return to the Internal Revenue Service. The system does not infringe upon any individual's privacy rights because of the security protections and the disclosure restrictions imposed by the Privacy Act.

A new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Office of Management and Budget (OMB) and Congress pursuant to Appendix I to OMB Circular A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Treasury/BPD .007

SYSTEM NAME:

Gifts to Reduce the Public Debt.

SYSTEM LOCATION:

Bureau of the Public Debt, Office of Securities and Accounting Services, Division of Customer Services, C Street Building, Washington, DC 20239–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of gifts to reduce the public debt.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence; copies of checks, money orders, or other payments; copies of wills and other legal documents; and other material related to gifts to reduce the public debt, received on or after October 1, 1984, by the Bureau of the Public Debt either directly from the donor or through the donor's Congressional or other representative.

This system does not cover gifts to reduce the public debt received prior to October 1, 1984, when this function was handled by the Financial Management Service. This system of records does not cover gifts sent to other agencies, such as gifts sent with one's Federal income tax return to the Internal Revenue Service. This system does not include any other gifts to the United States.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 31 U.S.C. 3113.

PURPOSE:

These records document the receipt from donors of gifts to reduce the public debt. They provide a record of correspondence acknowledging receipt, information concerning any legal matters, and a record of depositing the gift and accounting for it.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to:

1. Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license;

2. Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings;

3. Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

4. Disclose information to agents or contractors of the Department for the purposes of administering the public debt of the United States;

5. Disclose information to a legal representative of a deceased donor for the purpose of properly administering the estate of the deceased;

6. Disclose information to the Internal Revenue Service for the purpose of confirming whether a tax-deductible event has occurred;

7. Disclose information to the Department of Justice in connection with lawsuits in which the Department of the Treasury is a party or has an interest.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, microform, and magnetic media.

RETRIEVABILITY:

These records are retrieved by the name of the donor; amount of gift; type of gift; date of gift; social security number of donor, if provided; control number; check number; State code.

SAFEGUARDS:

These records are maintained in controlled access areas. Automated records are protected by restricted access procedures. Checks and other payments are stored in locked safes with access limited to personnel whose duties require access.

RETENTION AND DISPOSAL:

Records of gifts to reduce the public debt are maintained in accordance with National Archives and Records Administration retention schedules. All records are destroyed by incineration or shredding. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Customer Services, Office of Securities and Accounting Services, Bureau of the

Public Debt, C Street Building, Washington, DC 20239–0001.

NOTIFICATION PROCEDURE:

Address inquiries and initial requests for correction of records to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR part 1, Subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request, but will be answered to the extent possible.

Requests for Access to Records: (1) A request for access to records should be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking access in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the individual is seeking access by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request should be submitted to the following: Director, Division of Customer Services, Office of Securities and Accounting Services, Bureau of the Public Debt, C Street Building, Washington, DC 20239–0001. (3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR 1.26(d)(2)(ii).

Requests for Correction of Records: (1) A request by an individual for correction of records should be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. If the individual is seeking correction in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the individual is seeking correction by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau reserves the right to require additional verification of an individual's identity. (2) The initial request should be submitted to the following: Director, Division of Customer Services, Office of Securities and Accounting Services, Bureau of the Public Debt, C Street Building, Washington, DC 20239–0001. (3) The request for correction should specify: (a) The dates of records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor. (4) The request must include any available evidence in support of the request.

Appeals from an Initial Denial of a Request for Correction of Records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. If the individual is making an appeal in person, identity may be established by the presentation of a single official document bearing the individual's photograph or by the presentation of two items of identification without the photograph but instead showing a name and signature. If the individual is making an appeal by mail, identity may be established by the presentation of a signature, address, and one other identifier such as a photocopy of an official document bearing the individual's signature. The Bureau reserves the right to require additional verification of an individual's identity. (2) Appellate determinations will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Chief Counsel, Bureau of the Public Debt, 999 E Street NW., room 503, Washington, DC 20239–0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction. (3) An appeal must also specify: (a) The records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that the initial denial of the request for correction was received. (4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" and "Record Access Procedures."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, executors, administrators, and other involved persons.

EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: December 18, 1990.

Linda M. Combs,

Assistant Secretary of the Treasury (Management).

[FR Doc. 90–30215 Filed 12–26–90; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 249
Thursday, December 27, 1990

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).

POSTAL RATE COMMISSION

Meeting

TIME AND DATE: 4:00 p.m. December 22, 1990 and 10:00 a.m. January 3, 1991.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. R90–1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Cyril J. Pittack,

Assistant Administrative Officer.

[FR Doc. 90–30452 Filed 12–24–90; 11:30 am]

BILLING CODE 7710–FW–M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1 p.m. on Monday, January 7, 1991, and at 8:30 a.m. on Tuesday, January 8, 1991, in Washington, DC. The January 7 meeting, at which the Board will consider the Postal Rate Commission's recommended decision in Docket No. R90–1, expected to be issued on January 4, 1991, is closed to the public. (See 55 FR 50798, December 10, 1990.) The January 8 meeting is open to the public and will be held in the Benjamin Franklin Room on the 11th floor of the U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

Agenda

Monday Session

January 7—1 p.m. (Closed)

1. Consideration of Postal Rate Commission Recommended Decision in Docket No. R90–1. (Harold J. Hughes, General Counsel, Law Department)

Tuesday Session

January 8—8.30 a.m. (Open)

1. Minutes of the Previous Meeting, December 3–4, 1990.
2. Remarks of the Postmaster General. (Anthony M. Frank)
3. Personnel Matters. (Mr. Frank)
4. Annual Report on Sunshine Act Compliance. (David F. Harris, Secretary for the Board)
5. Annual Report of the Postmaster General. (Deborah K. Bowker, Assistant Postmaster General, Communications Department)
6. Annual Report on EEO/Affirmative Action. (Sherry A. Cagnoli, Executive Director, Office of Equal Employment Opportunity)
7. Capital Investment. (Stanley W. Smith, Assistant Postmaster General, Facilities Department; and Charles K. Kernan, New Orleans Field Division General Manager/Postmaster)
   a. Panama City, Florida, General Mail Facility.
8. Report on the Technology Resource Department. (Karen T. Uemoto, Assistant Postmaster General, Technology Resource Department)
9. Election of the Chairman and Vice Chairman.
10. Tentative Agenda for February 4–5, 1991, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 90–30464 Filed 12–24–90; 11:45 am]

BILLING CODE 7710–12–M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Resolution Trust Corporation will meet in open session on Thursday, December 20, 1990, at 11:00 a.m. to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

A. *Quarterly Report of Actions Taken Under Delegated Authority by the Resolution Trust Corporation Committee on Management and Disposition of Assets for the period January 1, 1990, through March 31, 1990.*

B. *Recommendations regarding adopting RTC policy for indemnification of directors, officers, and employees.*

Discussion Agenda:

A. *Memorandum re:* Policy for the disposition of cooperative and condominium units subject to state or local rent or securities regulation.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Resolution Trust Corporation, at (202) 416–7282.

Dated: December 17, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–30468 Filed 12–24–90; 11:46 am]

BILLING CODE 6714–01–M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:08 a.m. on Thursday, December 20, 1990, the Board of Directors of the Resolution Trust Corporation met in closed of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to (1) the resolution of failed thrift institutions, (2) the resolution of institutions in the Accelerated Resolutions Program, and (3) recommendations regarding the 1988–89 FSLIC Assistance Agreements.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Chairman L. William Seidman, Director Robert L. Clarke (Comptroller of the Currency), and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c) (4), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the

"Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, NW., Washington, DC.

Dated: December 24, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-30469 Filed 12-24-90; 11:46 am]

BILLING CODE 6714-01-M

RESOLUTION TRUST CORPORATION

Notice of Cancellation of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the previously announced open meeting of the Board of Directors of the Resolution Trust Corporation scheduled to be held on Thursday, December 20, 1990 at 11:00 a.m. has been *CANCELLED.*

No earlier notice of the cancellation was practicable.

Dated: December 18, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-30470 Filed 12-24-90; 11:46 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:08 a.m. on Thursday, December 20, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session jointly with the Board of Directors of the Resolution Trust Corporation ("RTC") to consider the following:

Matters relating to assistance agreements with depository institutions.

Matters relating to the Corporation's and the RTC's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision) and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Dated: December 21, 1990.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-30392 Filed 12-21-90; 4:16 pm]

BILLING CODE 6714-O-M

Corrections

Federal Register
Vol. 55, No. 249
Thursday, December 27, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 430

[Amdt. No. 2; Doc. No. 7879S]

Sugar Beet Crop Insurance Regulations

Correction

In rule document 90-28906 beginning on page 50814 in the issue of Tuesday, December 11, 1990, in the second column, under **DATES**, "January 10, 1990", should read "January 10, 1991".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Legal Description of Lands Transferred Pursuant to the National Forest and Public Lands of Nevada Enhancement Act of 1988; Correction

Correction

In notice document 90-27592 beginning on page 49660 in the issue of Friday, November 30, 1990, in the second column, in the second line, "269,932.488" should read "269,932.448".

BILLING CODE 1505-01-D

POSTAL SERVICE

International Postal Rates and Fees; Proposed Changes

Correction

In notice document 90-28944 beginning on page 50903 in the issue of Tuesday, December 11, 1990, make the following correction:

On page 50904, in the first column, under **SUPPLEMENTARY INFORMATION**, in paragraph "3.", in the eighth line, "ungrounded" should read "ungrouped".

On page 50909, in the first column, in the fourth line, "$0.090" should read "$0.90".

BILLING CODE 1505-01-D

federal register

Thursday
December 27, 1990

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

High Density Traffic Airports; Allocation of International Slots at O'Hare International Airport; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 26151; Amendment No. 93-61]

High Density Traffic Airports Allocation of International Slots at O'Hare International Airport

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: This action amends the procedures for allocation of air carrier and commuter operator takeoff and landing slots at O'Hare International Airport, to limit the availability of seasonal international slots at O'Hare Airport for carriers with 100 or more permanent slots. The action responds to a petition by United Airlines to limit the requirement for U.S. carriers to furnish domestic slots for international operations by other carriers. Under the rule adopted, slots generally will be not withdrawn from domestic operators to accommodate international operations by carriers with 100 or more slots at that airport, if the resulting allocation would exceed the schedule operated by each such carrier for the winter 1989–90 season. As a result, each large slot holder at the airport will be required to accommodate new international operations primarily from its own slot base, rather than the domestic slots of other carriers.

DATES: Rule effective January 28, 1991, the rule applies to the allocation of slots for flights that will be operated on or after October 27, 1991.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Rule

Any person may obtain a copy of this rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-8058. Communications must identify the amendment number of the rule. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

The High Density Traffic Airport Rule, 14 CFR part 93, subpart K, limits the number of operations during certain hours or half hours at four airports: Kennedy International, LaGuardia, O'Hare International, and Washington National. Comprehensive rules for the allocation and transfer of high density airport slots were adopted in December 1985 (14 CFR part 93, subpart S). A "slot" is defined as the authority to conduct one allocated IFR landing or takeoff operation during a specific hour or 30-minute period at one of the high density airports.

Slots used by foreign carriers and by U.S. carriers for international operations are allocated by the FAA under procedures different from those that apply to the allocation and transfer of slots for domestic operations. Under FAR § 93.217, international slots are allocated at Kennedy International Airport and O'Hare International Airport by the FAA for each summer and winter season. These slots may not be sold, and they expire at the end of the season for which they are allocated.

At O'Hare Airport only, a slot requested for scheduled international service by the dates specified in the rule (May 15 for the following winter season and October 15 for the following summer season) is allocated at or within two hours of the time requested. Domestic slots are withdrawn from U.S. operators to make slots available for the international requests, if those requests would otherwise have exceeded High Density Rule limits in that half hour.

United Airlines Petition

On July 10, 1987, the FAA published in the **Federal Register** a Notice of Petition for Rulemaking filed on behalf of United Air Lines, Inc. (52 FR 26020). The petition requested an amendment to the Federal Aviation Regulations (FAR) to remove the provision in the current rule that requires the FAA to make international slots at O'Hare available even if slots must be withdrawn from domestic carriers currently holding the slots.

Notice No. 90-10

On March 5, 1990, the Department issued Notice of Proposed Rulemaking (NPRM) No. 90-10. In Notice No. 90-10, the Department proposed to limit the ability of carriers holding or operating 100 or more slots at O'Hare airport to obtain slots for international operations by withdrawal of domestic slots from other carriers. Such carriers could obtain slots for international operations under § 93.217 if slots were available at the requested time period, or if allocation of the slots did not exceed the number allocated to that carrier under § 93.217 for the winter 1989-90 season.

Discussion of Comments Received on Notice No. 90-10

In response to Notice No. 90-10, the FAA received comments from three carriers and from others supporting or opposing the proposed rule.

Reason for the Regulation

All commenters addressed the rationale for limiting the availability of seasonal international slots at O'Hare for carriers holding 100 or more slots.

United Airlines stressed that the proposed rule would restore competitive fairness, alleviate substantial harm to domestic passengers, and prevent the transfer of United's slot base to American Airlines. United, however, urged the Department to adopt the rule with several revisions, which are discussed below under separate topics.

American Trans Air stated that the proposed rule appears to be the most viable approach to dealing with carriers' immediate needs for international slots at O'Hare. American Trans Air further noted that the grant of requests for slots for international operations by carriers holding 100 or more slots is inappropriate because such carriers can accommodate their needs from their own slot holdings. Since no carrier holding 100 or more slots at O'Hare is foreign, the inability to displace domestic slots could not trigger bilateral repercussions; therefore, American Trans Air argued, these carriers should not receive the benefit of the special allocation provisions for international flights.

American Airlines commented that the current allocation of international slots at O'Hare is neither disruptive nor unfair to United, and is based on rules that have been used and accepted for several years. American further commented that the proposal contained in Notice No. 90-10 is arbitrary, discriminatory, anticompetitive, and would cripple American's ability to expand internationally at O'Hare and force it to sustain large financial losses.

American does not claim that the current regulation results in a proportional withdrawal from all carriers, but rather asserts that carriers at O'Hare have determined their present position by acting in reliance on the rule in effect since 1985. If United is subject to withdrawal of more slots than American, that is because United has purchased slots with vulnerable withdrawal priority numbers and has

not acted aggressively to structure its slot base to avoid withdrawal, as has American. Also, United holds more air carrier slots at O'Hare than any other carrier. American argues, accordingly, that United does not need protection from market forces, and that it would be discriminatory and anticompetitive for the Department to intervene in the current situation to enable United to avoid the adverse effects of its own actions under a neutral regulation.

The Department does not agree that the current regulatory withdrawal mechanism should be left unchanged without regard to the actual effects of the rule over time. When the current rule was adopted in 1985, it was the Department's expectation that the international slot allocation mechanism would distribute the burden of providing international slots relatively evenly among carriers. Slot withdrawal priority numbers were assigned by random lottery, and withdrawal of slots by those numbers would ordinarily result in a proportionate withdrawal of slots from carriers holding various numbers of slots at O'Hare. American's restructuring of its slot base to eliminate virtually all slots currently vulnerable to withdrawal was not prohibited by the rule; however, it was not a desirable result of the rule's provisions.

Also, potential effects of the original rule have become increasingly apparent as total international operations at O'Hare have increased. In December 1985, when the current rule for O'Hare was adopted, there were approximately 90 international operations by all carriers during slot-restricted hours at the airport. This number remained relatively constant through winter 1988–89. In summer 1989, the number operated increased to 110, and in summer 1990, the number initially requested was 140, of which about 126 were operated. A substantial portion of this increase has been additional international operations by the two largest slot holders, American and United, at the airport. Between 1985 and 1990, United increased from 15 to 20 international operations per day, and American increased from 22 operations to 43, nearly double.

Withdrawal of domestic slots to maintain total operations at High Density Rule limits has increased accordingly. Slots withdrawn since 1986 for international operations are as follows:

Summer 1986: 0
Winter 1986–87: 0
Summer 1987: 8 (American: 0; United: 4)
Winter 1987–88: 0
Summer 1988: 6 (American: 0; United: 15)
Winter 1988–89: 10 (American 1; United: 8)
Summer 1989: 22 (American: 4; United: 15)
Winter 1989–90: 24 (American: 3; United: 19)
Summer 1990: 44 (American: 5; United: 34)

While American states that there has been no dramatic increase in slot withdrawals, the total increase and the increase for United have been significant. American's statement that the proposed rule would substantially interfere with its expansion of international operations at O'Hare indicates that this trend would continue if the rule were not amended.

The current status of American's slot holdings at O'Hare, and the relative invulnerability of its slots to withdrawal for international operations by other carriers, has several ramifications. First, American can target the domestic operations of its largest competitor for withdrawal. Each new American international operation in a time period in which United holds the next vulnerable slot provides a double benefit to American: a cost-free slot for addition of an international operation and the requirement for its competition to cancel a domestic flight. While the Department does not assert that American has acted with anticompetitive intent, the current situation certainly permits such action and provides an incentive for anticompetitive behavior.

Second, American has shifted the burden of its increased international schedule not only to United but to other U.S. carriers with far fewer resources at O'Hare than American or United. American currently holds approximately 529 slots—32% of the 1670 air carrier slots at O'Hare—in addition to approximately 65% of the commuter slots at the airport. The third largest air carrier slot holder, Northwest Airlines, holds 63 air carrier slots. While, as American correctly notes in its comment, relatively few slots have been withdrawn to date from carriers with fewer than 100 slots, the number would increase with the expansion of international operations by American and United.

Both American and United have increased their slot holdings at O'Hare under the current regulations. Since 1985, American has increased its air carrier slot base from 442 to approximately 529 slots. During the same time United has increased its base from 597 to approximately 729 slots. Both carriers operate international flights at O'Hare and have increased their international operations since 1985. American and United together currently hold more than 75 percent of the air carrier slots at O'Hare.

In consideration of the dominant position of these two carriers at O'Hare, the growing international operations by both carriers, and the substantially smaller slot holdings of other U.S. carriers at the airport, the Department considers it reasonable that these carriers use their existing slot bases for new international operations. As the two largest carriers at O'Hare, American and United have the capacity and flexibility to use slots from their own bases for international service.

Effect on Historical Service

American states that the amendment proposed will force the cancellation of international flights already approved by the FAA, and interfere with "historical" rights to operations approved in prior seasons. The rule will not affect any schedule prior to winter 1991–92. The slot request for that season is not due for submission to the FAA until May 15, 1991. It is correct that the amendment may result in the denial of future slot requests for flights first operated during summer 1990, winter 1990–91, and summer 1991, and which would be approved in the future under existing rules. However, those flights represent only a portion of American's and United's international operations, and other flights previously operated will not be affected. Also, for U.S. airports, this "historical" right to previously operated flight times arises only under the regulatory provisions of FAR § 93.217, and the relevant provisions of that section are amended by the rule adopted. While American's comment is partially correct, it does not present a reason not to adopt the proposed rule.

Effective Date of Final Rule

Both American Trans Air and United Airlines urged the Department to adopt the proposed amendment as a final rule without delay. United urged the Department to adopt the amendment before May 15, 1990, the deadline for the submission of requests to operate during the following winter season.

The Department is aware that carriers have requested and, in most cases, received final allocations of slots for the summer 1991 season. Accordingly, the rule will take effect on January 28, 1991 and will first apply to the winter 1991–92 season beginning October 27, 1991. The deadline for filing slot requests with the FAA for the winter 1991–92 season is May 15, 1991. This lead time avoids

impact on schedules already requested and should minimize the need for short-term planning adjustments.

Baseline for Future Allocations

In Notice No. 90-10, the Department proposed that the slots allocated to and used by United and American for the winter 1989-90 season would serve as a baseline for the number of operations by these carriers that would be granted in the future even if withdrawal were required. Requests by United or American above the winter 1989-90 level would be granted only if slots were available at the half hours requested.

United Airlines recommended the adoption of the winter 1985-86 season, the schedule in effect when the slot rule was first adopted, as the baseline for future slot allocations. American Airlines and several other commenters, arguing that the adoption of a winter 1989-90 baseline would be inconsistent with international practice and would require cancellation of service already in effect, recommended the adoption of the summer 1990 season as a baseline for future allocations. American increased its international slot holdings by approximately 10 operations from winter 1989-1990 to summer 1990, and adoption of summer 1990 as the baseline would permit operation of all of the new flights in future summer seasons without cancellation of domestic flights.

The Department considers the level of operations by American and United during the winter 1989-90 season, as proposed in Notice No. 90-10, to be an appropriate baseline level. A rollback of withdrawals to the 1985 level requested by United would unnecessarily disrupt existing international operations and would retroactively undo the legitimate operation of the regulations in effect from 1985 to the issuance of Notice No. 90-10. Conversely, the winter 1989-90 season represents all of American's longstanding international operations and many of its newer operations, but does not include the 10-slot increase for summer 1990 and the additional 11-slot increase requested and allocated for summer 1991. Because American increased its schedule from summer 1989 to winter 1989-90, use of the winter 1989-90 baseline will permit American some increase over its summer schedules operated prior to 1990.

As United noted in its comments, the proposed rule refers only to the "total" number of operations in each carrier's winter 1989-90 schedule. Theoretically, this could allow each carrier to request its operations in any time period, or even all of the operations in a single time period. In order to retain the substance of the proposal and to permit some variation from the schedule operated in winter 1989-90, while limiting the potential for abuse, the final rule as adopted limits the total number of slots that will be withdrawn in any time period (for a carrier holding or operating 100 or more slots) to the number of slots operated by that carrier during winter 1989-90. The rule limits the number of operations in any particular half hour to the number allocated to and scheduled by that carrier during winter 1989-90, plus two slots. (The number in other half hours would need to be reduced accordingly). The determination of the half-hour and daily totals scheduled during winter 1989-90 will be based on the carrier flights scheduled on Friday, February 23, 1990, which the FAA has determined is representative of the operations scheduled during the peak part of the season. Finally, in the amendment adopted, available slots may be allocated without regard to the number operated by the carrier in winter 1989-90, to permit the affected carriers to expand their international operations without impact on domestic flights if unused slots or additional capacity become available.

Competitive Effect of Amendment on U.S. Carriers Operating International Service at O'Hare

Both American Airlines and United Airlines commented that the proposed rule would permit foreign carriers to expand operations at O'Hare using slots withdrawn from American and United, thus shifting the international competitive balance in favor of foreign carriers. Both carriers also noted that, at slot-restricted foreign airports, slots are not withdrawn from domestic operators to meet international requests.

The Department believes that if vacant slots are not available to accommodate international services by foreign airlines and U.S. airlines with fewer than 100 permanent slots at Chicago, it must continue to withdraw slots to meet U.S. international obligations and ensure a competitive presence for small U.S. airlines. U.S. air services agreements give foreign airlines access to the point Chicago, and they must be able to exercise that authority. Moreover, if U.S. airlines retain the ability to increase international service from Chicago, their foreign counterparts that have Chicago authority must also have that opportunity. Given the capacity constraints and the lack of an alternative airport, it is only through the slot withdrawal process that access can be made available to foreign airlines. The Department recognizes that U.S. airlines do not have the same degree of certainty that they will receive an acceptably timed slot at a foreign airport as foreign airlines do at O'Hare. Therefore, as discussed below, the rule is also being amended to provide that slots will be allocated within one hour of the requested time to address the problem raised by American that foreign airports are meeting the reciprocity standard at its outer limits.

Even if domestic slots are not withdrawn at foreign airports, U.S. airlines are expected to receive the slots necessary to sustain an effective competitive presence in foreign markets. Pursuant to § 93.217(d), the Office of the Secretary of Transportation retains the right not to apply the provisions of § 93.217 to a foreign operator whose country provides slots to U.S. carrier and commuter operators on a basis that is more restrictive than that provided by U.S. slot allocation rules. The situation in foreign markets is being carefully monitored by the Office of the Secretary, and if the ability of U.S. operators to compete effectively in foreign markets is compromised, that provision may be invoked.

Effect of the Proposed Rule on Domestic Service

United urged the Department to consider additional modifications to § 93.217 to eliminate the on-going harm of withdrawals of slots from domestic service at O'Hare. United noted that Notice No. 90-10 did not propose any changes in the slot-request mechanism for foreign flag or U.S. carriers holding or operating fewer than 100 permanent slots. American commented that the proposed rule would force it to cancel domestic flights to provide a slot for each of its future international expansions, and foreign carriers could continue to expand and take slots from American.

For reasons set forth in the NPRM, the Department continues to believe that withdrawal of domestic slots to accommodate requests for international operations is necessary to honor bilateral commitments for service to the point Chicago. Accordingly, United's request to restrict the ability of carriers holding fewer than 100 slots to obtain international slots at O'Hare is not being adopted. The Department will, however, continue to monitor the impacts on competition, the relative position of the U.S. airline industry in international air transportation, and the relative balance of domestic and international service at O'Hare to determine whether further refinements are needed.

American argues primarily for continuation of the status quo—unrestricted withdrawal of domestic slots for international operations—to avoid the necessity of choosing between domestic and international service in utilizing each of its slots. Several other commenters opposed Notice 90-10 because of the potential for cancellation of planned or existing domestic service. Two specific points named in comments were Stewart International Airport in Newburgh, New York, and Eagle County Airport near Vail, Colorado, both of which receive or have been promised service by American Airlines.

American is correct that the rule adopted will require it to cancel domestic operations to operate additional international flights from O'Hare, unless another slot is available for the international operation in the half hour requested or American can obtain a replacement slot by purchase or lease for the domestic flight. However, the existing rule has the same effect on other carriers and service, for the benefit of American's international schedule. Each additional international operation by American that requires withdrawal of a domestic slot will require the cancellation of the domestic flight that would have been operated with that slot. Therefore, the proposed rule has no significant effect on the total number of domestic flights operated or cancelled, but only on the determination of which carriers are required to cancel them.

Airport Capacity

Most commenters urged that airport capacity be expanded at O'Hare. The FAA has completed or has in progress a number of measures to increase the efficiency of air traffic operations in the Chicago area, including upgrading of radar and computer equipment, increased controller staffing, reorganization of air traffic sectors and arrival and departure routes, and the improvement and refinement of ATC's traffic flow management capability. The Department is also supporting an additional airport for the Chicago area. However, the airspace in the Chicago area and, for the time being, the number and configuration of runways at O'Hare, are finite resources that cannot be expanded. Moreover, some of the measures planned to improve the efficiency of operations will not necessarily increase capacity. As a result, the addition of substantial numbers and air carrier operations at O'Hare is not currently feasible without unacceptable operational impacts. O'Hare Airport now experiences one of the highest percentages of operating delays of any airport in the U.S.; the FAA will not accept the degradation of air service to the public and the additional impacts on ATC resources that a substantial increase in air carrier operations at O'Hare would entail, until an increase in system capacity can be attained.

Alternative Proposals

American Airlines and United Airlines both suggested alternative amendment to the slot allocation rules. American first suggested that the rule use a baseline of summer 1990 rather than winter 1989-90, to permit continuation of the approximately 10 international operations added by American for the current summer without cancellation of domestic flights in future summer seasons. For the reasons discussed above under "*Baseline for future allocations,*" the Department has adopted the winter 1989-90 baseline as proposed in Notice 90-10.

American further proposed that the amendment provide that:

(1) No slots would be withdrawn for international operations by *any* U.S. carrier above its summer 1990 baseline schedule;

(2) A U.S. carrier could use any domestic slot in its base to provide international operations, including commuter slots;

(3) Slots would be granted for operations by a foreign carrier within 30 minutes of the time required, on the condition that U.S. carriers receive similar treatment in the home country of that carrier, and

(4) Any slots allocated to foreign carriers be created as additional slots at O'Hare by the FAA.

The current procedure for allocating slots for international operations at O'Hare affords identical treatment to the requests of U.S. and foreign carriers. The amendment adopted changes this provision only with respect to the carriers holding the greatest number of slots at the airport. U.S. carriers other than American and United have only a fraction of the slots held by those two carriers, and the Department believes that such carriers should not be required to rely on their own slot bases for international operations.

Nor would the ability to use commuter slots be a general solution, in that American and Air Wisconsin are the only carriers holding both commuter and air carrier slots. Also, the Department is currently reviewing the relative proportion of slots allocated to the various operator categories at the high density airports for adverse effects on operational and community service, but that review is not complete. Accordingly, the Department sees no basis for any change in the provisions of the rule affecting carriers with fewer than 100 slots at O'Hare, and does not agree that slots allocated for commuter operations represent capacity available for international operations. For reasons discussed above under "*Airport Capacity,*" the Department does not accept American's proposal to provide slots for international operations by simply permitting more operations at O'Hare.

American correctly observes that while § 93.217(a)(6) provides only for allocation of slots "within 2 hours of the time period requested," the FAA ordinarily grants the request *at* the time period requested. As a result, foreign carriers (and U.S. flag carriers) can generally rely on the allocation of a requested slot at O'Hare at the time requested. American asserts that coordinators of foreign slot-controlled airports, in providing reciprocal handling of slot requests by U.S. carriers, tend to disregard the actual practice, however, and cite the 2-hour provision of the rule itself. Foreign governments have utilized the current two-hour provision to the detriment of U.S. carriers serving those countries, by offering slots exactly two hours away from the time period requested. As a remedy, American requests that the rule be amended to provide for allocation within 30 minutes of the time requested. The existing 2-hour provision was adopted to permit an unallocated slot to be used to satisfy an international request, if such a slot were available within 2 hours before or after the exact time requested. As American observes, the provision has rarely been necessary. This is because a slot is either available at the time requested, or because there are no slots available within 2 hours of the time requested. The Department continues to believe that some authority should be retained to allocate an available slot reasonably close to the time requested. Accordingly, the Department is amending the provision to provide that a slot will be allocated at the time requested unless a slot is available within on hour of the requested time, in which case the unallocated slot will be used to satisfy the request.

While United supports the proposal, it requests a modification to the rule proposed to bring it closer to the procedure in effect for slot allocation at Kennedy Airport. United requests that no slots be withdrawn for international operations between the hours of 1315 through 2044, the 7½ peak hours for

European operations at O'Hare; slots would be allocated during these hours only if available. Slots would be granted on demand at other restricted hours (0645 through 1314 hours and 2045 through 2114 hours) as under the existing rule. United further requests that unused general aviation slots—10 air traffic reservations allocated each hour for operations other than air carriers or commuters—be allocated for international air carrier operations instead. As previously stated, the general issue of the relative allocations to the three slot categories are under review. However, general aviation operations are not operationally equivalent to air carrier operations, from the standpoint of either air traffic control or airport airside operations. Accordingly, the Department does not agree that the use of general aviation reservations is a practical alternative to the rule adopted.

The Rule Adopted

In consideration of the above, the Department is amending § 93.217 to limit the withdrawal and allocation of international slots provided to carriers holding or operating 100 or more permanent slots at O'Hare International Airport—currently American Airlines and United Airlines. Such carriers will be allocated a requested international slot if a slot is available, but a domestic slot will be withdrawn from another carrier for that purpose only if the allocation would not result in a total allocation exceeding the slots allocated for the winter 1989–90 season.

The rule will apply to commuter operators as well as air carriers; however, there are no international operations at O'Hare using commuter slots at this time, and no commuter slots have been requested or withdrawn for commuter operations since the adoption of the current allocation rules in 1985.

In the interest of improving the position of U.S. air carrier requesting slots at foreign airports, the amendment also provides that a slot allocated to a carrier holding or operating less than 100 slots will be allocated at the time period requested unless a slot is available within one hour of the time requested, in which case the available slot will be allocated.

The rule adopted will have no effect on carriers with fewer than 100 slots at O'Hare, and will, for the foreseeable future, have no practical effect on commuter operators holding 100 or more commuter slots. This amendment will have two general effects on air carriers with 100 or more slots. First, the two largest carriers at O'Hare will be required to furnish slots for new international service from their own domestic slot bases. Alternatively, these carriers, of course, will have the option of buying slots to accommodate their new international operations. They may also elect to provide single-plane, one-stop service to communities that receive nonstop service instead of abandoning service to those communities altogether.

Second, carriers with 100 or more slots will continue to be subject to withdrawal of their slots to accommodate international operations requested by other carriers. This is the current rule, and the fact that the two largest carriers hold more than 75% of all air carrier slots at O'Hare necessitates that these carriers continue to be subject to withdrawal along with other carriers at the airport. However, withdrawals from the two largest carriers will be reduced somewhat from current levels by the fact that these carriers will not be furnishing slots for each other's international operations.

The Department notes that since the issuance of Notice 90–10, slots for international operations have been requested for winter 1990–91 and summer 1991. This rule will not alter those allocations. Accordingly, the FAA will withdraw sufficient slots, in accordance with existing regulations, to accommodate operations for winter 1990–91 and summer 1991. However, the rule will preclude allocation of some of those slots in future seasons, to the extent the winter 1990–91 and summer 1991 allocations exceed the number of slots allocated for the winter 1989–90 season used as a baseline.

Regulatory Evaluation

In Notice No. 90–10, the Department concluded that any economic differences attributable to changes in service resulting from this amendment would be minimal and that, since slots would neither be created nor withdrawn, the net societal impact of this amendment would be effectively zero. None of the commenters on the proposed rule directly addressed the regulatory evaluation or presented any information that warrants a different conclusion.

This final rule will not significantly alter the current operations environment for air carriers at O'Hare Airport. This rule affects only two carriers, United and American, at O'Hare Airport. The rule, which (after the summer 1991 season) eliminates the withdrawal and reallocation of slots above the winter 1989–90 level for international operations for the two largest carriers at O'Hare, imposes a cost on those carriers, but that cost is offset, at least in part, by each carrier not having to furnish slots to its largest competitor for that purpose.

While placing no dollar value on the effects of this amendment, American argued that its adoption will "force it to sustain large financial losses." United, in its comments, estimated that its net loss under the existing rule is an initial ten million dollars with a recurring loss of forty-one million dollars in annual revenues. United also estimated that these losses would increase under the current rule. These comments support the view that the principal effect of this amendment is a transfer of costs and benefits among carriers and, perhaps, among communities served by those carriers.

American and United are the two carriers affected by the rule. They are by far the most dominant carriers at O'Hare Airport, holding 32 percent and 44 percent, respectively, of the air carrier slots. This rule, which is expected to have a net effect of fewer than 30 slots on the distribution between American and United (who requested a total of 22 slots for winter 1990–91 above the winter 1989–90 level), will not measurably affect competition. Regarding any impact on domestic service, some communities served by United would have experienced a decrease in service in the absence of this amendment. Some (presumably different) set of communities served by American could experience a decrease in service under this amendment. Given a fixed number of slots, an increase in international service will result in a decrease in domestic service that will be felt in the communities served by some carriers' domestic systems. This outcome would occur under either the amendment as proposed in Notice No. 90–10 or under the amendment as adopted in this final rule.

Two commuters (one wholly owned by American) hold more than 100 slots at O'Hare Airport, but will not be affected because currently there are no withdrawals of commuter slots for international operations.

The implication of the preceding discussion is that the societal costs of this rule are zero. The benefits, while not measurable in dollar amounts, flow from the elimination of the potential incentive for anticompetitive behavior which the Department believes is inherent in the current rule. Moreover, there is a small but real competitive benefit from eliminating the requirement for carriers holding relatively few slots to provide slots for the international operating needs of these two large carriers. That benefit will increase in the

future as international operations by these two carriers at O'Hare increase.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities." With regard to the impact of this amendment, it is important to recognize that the domestic slots at issue are not tied to any particular service. Thus, the reduction of service to any particular communities is not a direct consequence of this amendment, but, rather, the consequence of the fact that the number of air carrier slots at O'Hare is fixed—a circumstance not affected by this amendment.

Any withdrawal of particular slots from domestic service for use in international operations would be the result of decisions by the carriers as to which domestic service reductions are likely to have the least effect on profitability. While service to small communities may be affected, the reductions may also occur on routes serving larger communities where competition is more intense and profitability more limited. This rule does not affect those considerations, rather, it changes the identity of the carriers that will be making the decisions. Therefore, there is no indication that this rule will disproportionately affect small communities.

As a result of the foregoing considerations, that only two locations are explicitly mentioned as likely to be negatively impacted, and that commuter carriers are not affected by the adoption of this rule, the Department has determined that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act of 1980.

International Trade Impact Analysis

This rule will not influence or affect the sale of foreign products or services domestically or the sale of U.S. products or services in foreign countries. Therefore, the Department certifies that this rule will not eliminate existing barriers or create additional barriers to the sale of foreign aviation products or services in the U.S. The Department also certifies that the rule will not eliminate existing barriers or create additional barriers to the sale of U.S. aviation products and services in foreign countries.

Paperwork Reduction Act

This amendment provides for no changes to the required reporting of information by air carrier and commuter operators to the FAA. Under the requirements of the Federal Paperwork Reduction Act, the Office of Management and Budget previously has approved the information collection provision of subpart S. OMB Approval Number 2120–0524 has been assigned to subpart S.

Federalism Implications

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

Conclusion

For the reasons discussed under *Regulatory Evaluation*, the Department has determined that this amendment (1) is not a "major rule" under Executive Order 12291; and (2) is a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Further, I certify that under the criteria of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 93

Aviation safety, Air traffic control, Reporting and recordkeeping requirements.

Adoption of the Amendment

Accordingly, the Department of Transportation amends part 93 of the Federal Aviation Regulations (14 CFR part 93) as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. App. 1302, 1303, 1324, 1348, 1354(a), 1421(a), 1424, 2402, and 2424; 49 U.S.C. App. 106 (Revised Pub. L. 97–449, January 12, 1983).

§ 93.217 [Amended]

2. In § 93.217, paragraph (a)(5) is amended by removing the first word, "At", and substituting "Except as provided in paragraph (a)(10) of this section, at".

§ 93.217 [Amended]

3. In § 93.217, paragraph (a)(6) is amended by removing the first word, "Additional", and substituting "Except as provided in paragraph (a)(10) of this section, additional"; and by removing the last sentence, "These slots will be allocated within 2 hours of the time period requested.", and substituting "These slots will be allocated at the time requested unless a slot is available within one hour of the requested time, in which case the unallocated slot will be used to satisfy the request."

4. In § 93.217, new paragraph (a)(10) is added to read as follows:

§ 93.217 Allocation of slots for international operations and applicable limitations.

(a) * * *

(10) At O'Hare Airport, a slot will not be allocated under this section to a carrier holding or operating 100 or more permanent slots on the previous May 15 for a winter season or October 15 for a summer season unless

(i) Allocation of the slot does not result in a total allocation to that carrier under this section that exceeds the number of slots allocated to and scheduled by that carrier under this section on February 23, 1990, and does not exceed by more than 2 the number of slots allocated to an scheduled by that carrier during any half hour of that day, or

(ii) Notwithstanding the number of slots allocated under paragraph (a)(10)(i) of this section, a slot is available for allocation without withdrawal of a permanent slot from any carrier.

Issued in Washington, DC on December 19, 1990.

Samuel K. Skinner,

Secretary of Transportation.

[FR Doc. 90–30160 Filed 12–20–90; 4:05 pm]

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Thursday
December 27, 1990

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Part 510

Implementation of the Minimum Wage Provisions of the 1989 Amendments to the Fair Labor Standards Act in Puerto Rico; Interim Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 510

Implementation of the Minimum Wage Provisions of the 1989 Amendments to the Fair Labor Standards Act in Puerto Rico

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim Final Rule; request for comments.

SUMMARY: On March 30, 1990, an interim final rule was published implementing the minimum wage provisions of the 1989 Amendments to the Fair Labor Standards Act (FLSA) in the Commonwealth of Puerto Rico. These Amendments provided, in part, that the increases in the FLSA minimum hourly wage rates from $3.35 to $3.80 (effective April 1, 1990) and to $4.25 (effective April 1, 1991) may, for certain employers, be phased in over extended periods of time in the Commonwealth, based on the average hourly earnings in particular industries as those industries are defined in the Standard Industrial Classification (SIC) Code.

In preparing the interim final rule, the Department found that only limited employment and earnings information was available for employees in agriculture and requested the Commonwealth to conduct an additional survey of the wages paid agricultural workers and to report its findings to the Department.

The Department has completed its review of the survey and the additional material and has prepared the following document indicating the appropriate tiers for agricultural employees.

DATES: *Effective Date:* This interim final rule is effective on December 27, 1990.

Comments: Comments are due on or before January 28, 1991.

ADDRESSES: Submit written comments (preferably in triplicate) to John R. Fraser, Acting Administrator, Wage and Hour Division, U.S. Department of Labor Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self addressed stamped post card.

FOR FURTHER INFORMATION CONTACT: John R. Fraser, Acting Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background.

On March 30, 1990 (55 FR 12114) interim final regulations were published in the **Federal Register** implementing the minimum wage provisions of the 1989 Amendments to FLSA in Puerto Rico. With respect to agricultural activities in Puerto Rico (SIC major groups 01, 02, 08, and 09), the Department found, after reviewing available information on agriculture, that only limited employment and hourly earnings data were available for agricultural workers from various sources within the Commonwealth government, and that no survey had been conducted. (Agricultural activities included within SIC Major group 07, Agricultural services, were surveyed and treated previously under nonmanufacturing industries.)

The information available at the time the interim final rule was prepared provided a basis for concluding that it was probable that average hourly earnings in agriculture fell below $4.00 an hour except in sugarcane farming activities where the average was probably above $4.00 an hour but less than $4.65. Accordingly, a determination was made to place all agricultural workers except sugarcane workers under Tier 3, the tier applicable to industries in which the average hourly wage rate is less than $4.00 and that is subject to a give-year phase-in of the minimum wage increases. Sugarcane workers were placed under Tier 2, applicable to industries in which the average hourly wage rates are greater than $4.00 but less than $4.65 and subject to a four-year phase-in.

While the available information was considered sufficient for purposes of placement under the interim final rule, the Department, pursuant to its verification responsibilities under the statute, requested the Commonwealth government to conduct a more complete and thorough survey of the wages paid agricultural workers. The survey was to be conducted for a current representative time period and was to cover various crop categories. The Commonwealth agreed to conduct this survey and to forward the results to the Department for review no later than June 1, 1990.

In the interim final rule, the Department stated that the tier placements for agriculture were being done on an interim basis and would expire on their own terms on August 1, 1990, if the survey to be conducted by the Commonwealth was not timely completed and forwarded to the Department for review and evaluation. The Commonwealth submitted its survey to the Department prior to June 1, 1990.

The initial review of the data submitted could not be completed prior to the original August 1, 1990 deadline. Thus, on July 26 (55 FR 30453), the Department published an amendment extending the deadline until October 1, 1990. during its review, the Department found that additional information, including applicable collective bargaining agreements, was necessary and that a thorough review could not be completed prior to the October 1 deadline. On October 1, an amendment extending the deadline until January 1 1991, was published in the **Federal Register** (55 FR 39958).

A thorough review of the data, including applicable collective bargaining agreements, has been completed.

In developing the agricultural survey, the Department asked that the Commonwealth:

1. Include employment and earnings from at least 35 sugarcane farms, 35 coffee farms, 20 ornamental farms, 20 vegetable farms, and 50 other farms;
2. Follow standard statistical random sampling techniques;
3. Obtain information on earnings, employment, and hourly wage rates paid to workers for the workweek including March 11 through March 17, 1990; and,
4. Obtain, for sugarcane farms, applicable collective bargaining agreements.

The Commonwealth selected a total of 293 farms for the survey. Of this total, 260 were selected by using data from the unemployment insurance (202) program. Farms in this program were classified by four digit SIC code and ordered by number of employees reported in March 1989. Farms were then selected from each category. The Commonwealth Department of Agriculture, after reviewing those farms included in the sample, added 33 farms to insure that the sample included the largest farms in terms of production. A total of 224 farms responded to the survey.

The survey conducted by the Commonwealth revealed that, for all but two industries (0254 Poultry hatcheries and 0271 Horses and other equines), average hourly wage rates were below $4.00 as indicated by the limited information available at the time the interim final rule was prepared, and thus Tier 3 minimum wage rates are applicable. For industries 0254 and 0271, the survey revealed average hourly wages above $4.00 but less than $4.65,

making these industries subject to treatment under Tier 2. As provided in the interim final rule, any correction in the applicable tier necessitated after review of the survey will be retroactive to April 1, 1990. That is, for all hours worked by such employees since April 1, 1990, the applicable minimum hourly wage should have been $3.55 (Tier 2) and not $3.50 (Tier 3). Thus, employers in industries 0254 and 0271 must make appropriate adjustments for all covered nonexempt employees paid less than $3.55 an hour retroactive to April 1, 1990.

With respect to workers in industry number 0133, Sugarcane and sugar beets, the survey revealed an average hourly wage rate below $4.00. This differed from the limited information available at the time of the interim final rule that indicated that the average hourly wage rate was between $4.00 and $4.64. This survey did not include those relatively few individuals employed as equipment operators by the Sugar Corporation of Puerto Rico because such workers are employed in the government sector and should be paid the corresponding minimum government rate. (Information with respect to employees of the various government corporations was included in appendix C of the Interim Final Rule. Since data were not provided for the Sugar Corporation, its employees must be paid wage rates not less than those required under Tier 1.) After review, the Department has concluded that the results of the survey reflect the average hourly wage rate in this category. Thus, the tier applicable to the sugarcane farming industry (SIC Number 0133) is Tier 3 rather than Tier 2. However, employers who are now subject to Tier 3 wage rates but have paid wages to covered, nonexempt workers based on previously applicable Tier 2 wage rates may not take any action to recoup such payments where those actions would have the effect of reducing the wage rate being paid at the time of such recoupment to below that required under Tier 3.

II. Procedural Matters

The application of the Paperwork Reduction Act, Executive Order 12291, and Regulatory Flexibility Act are discussed in the Preamble to the interim final rule published on March 30, 1990 (55 FR 12114).

III. Administrative Procedure Act

The Secretary determined that the public interest required the immediate issuance of the initial interim final regulations (55 FR 12114) in order to comply with the requirements in the 1989 Amendments. Insufficient time existed between the enactment of the Amendments and the effective date of the first increase in the minimum wage rate of April 1, 1990, for the Department to issue a proposal for comments, review the comments, and promulgate a final rule, nor was there sufficient time to obtain notice and comment on the survey methodologies, the results of the surveys, or the findings with respect to employment in agriculture.

The same considerations apply to this interim final regulation for employment in agriculture as to the initial interim final regulations. Failure to have this amendment in place as soon as possible will delay the implementation in agriculture of the proper relief from the minimum wage requirements of FLSA intended by Congress and will prolong the period during which employees in certain industries are paid less than the applicable minimum wage. Accordingly, the Secretary for good cause finds, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and public comment and a delay in the effective date are impracticable and contrary to the public interest. However, interested persons are invited to submit comments on this regulation on or before January 28, 1991. Following evaluation of the comments received, a final regulation modified as necessary will be published.

For the same reasons, the Secretary also finds for good cause, pursuant to 5 U.S.C. 553(d)(3), that this interim final rule cannot be published 30 days before its effective date. The time constraints created by the need to obtain additional information, including applicable collective bargaining agreements, and to complete a thorough review made earlier publication impracticable.

This document was prepared under the direction and control of John R. Fraser, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 510

Employment, Investigations, Labor, Law enforcement, Puerto Rico, Incorporation by reference, Minimum wages.

Accordingly, title 29, chapter V, subchapter A, part 510 of the Code of Federal Regulations, is amended as set forth below.

Signed at Washington, DC, on this 18th day of December 1990.

Samuel D. Walker,

Acting Assistant Secretary for Employment Standards.

PART 510—IMPLEMENTATION OF THE MINIMUM WAGE PROVISIONS OF THE 1989 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT IN PUERTO RICO

1. The authority citation for part 510 continues to read as follows:

Authority: Section 4, Pub. L. 101–157, 103 Stat. 938; 29 U.S.C. 201 *et seq.*

2. In § 510.20, paragraph (d) is revised to read as follows:

§ 510.20 Wage surveys in Puerto Rico.

* * * * *

(d) *Agriculture.* At the request of the Department, the Bureau of Labor Statistics of Puerto Rico conducted a survey of wages paid to agricultural workers which included employment and earnings from at least a specified number of sugarcane farms, coffee farms, ornamental farms, vegetable farms, and other farms, following standard statistical random sampling techniques. The survey included information on earnings, employment, and hourly wage rates paid to workers for the workweek including March 11 through March 17, 1990. In addition, applicable collective bargaining agreements were reviewed for sugarcane farms.

* * * * *

3. Section 510.23 is revised to read as follows:

§ 510.23 Agricultural activities eligible for minimum wage phase-in.

Agriculture activities eligible for an extended phase-in of the minimum wage in Major groups 01, 02, and 07 have been incorporated into Appendix B—Nonmanufacturing Industries Eligible for Minimum Wage Phase-In. Applicable wage rates are effective retroactive to April 1, 1990. Employers in the sugarcane farming industry (SIC Number 0133) who are subject to Tier 3 wage rates but who have paid wage rates based on Tier 2 wage rates may not take any action to recoup such payments where those actions would have the effect of reducing the wage rate being paid at the time of such recoupment to below that required under Tier 3.

Appendix B—[Amended]

4. "Appendix B—Non-manufacturing industries eligible for minimum wage phase-in" is amended by adding the following at the beginning of the table:

NONMANUFACTURING INDUSTRIES

Major group	Industry group	Industry number	Tier	Industry
01			3	Agricultural production—crops.
	011		3	Cash grains.
		0119	3	Cash grains, not elsewhere classified.
	013		3	Field crops, except cash grains.
		0133	3	Sugarcane and sugar beets.
		0139	3	Field crops, except cash grains, not elsewhere classified.
	016		3	Vegetables and melons.
		0161	3	Vegetables and melons.
	017		3	Fruits and tree nuts.
		0174	3	Citrus fruits.
		0179	3	Fruits and tree nuts, not elsewhere classified.
	018		3	Horticultural specialties.
		0181	3	Ornamental floriculture and nursery products.
	019		3	General farms, primarily crop.
		0191	3	General farms, primarily crop.
02			3	Agricultural production—livestock and animal specialties.
	021		3	Livestock, except dairy and poultry.
		0211	3	Beef cattle feedlots.
		0213	3	Hogs.
	024		3	Dairy farms.
		0241	3	Dairy farms.
	025		3	Poultry and eggs.
		0251	3	Broiler, fryer, and roaster chickens.
		0252	3	Chicken eggs.
		0254	2	Poultry hatcheries.
	027		3	Animal specialties.
		0271	3	Fur-bearing animals and rabbits.
		0272	2	Horse and other equines.
		0273	3	Animal aquaculture.
		0279	3	Animal specialties, not elsewhere classified.
*	*	*	*	* * *

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Thursday
December 27, 1990

Part IV

Department of Labor

Employment and Training Administration

20 CFR Parts 626 et al.

Job Training Partnership Act; Incentive Bonuses Under Title V; Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 627, 629, and 637

RIN 1205-AA75

Job Training Partnership Act; Incentive Bonuses Under Title V

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is issuing final regulations for the incentive bonus programs under the new title V of the Job Training Partnership Act. Title V provides for inventive bonuses to States in which certain employable dependent individuals are successfully placed in jobs.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh S. Davies, Acting Director, Office of Employment Training Programs. Telephone : (202) 535-0580 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 7, 1988, Congress enacted the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Public Law 100-628, 102 Stat. 3224. Subtitle B of title VII of Public Law 100-628 is the Jobs for Employable Dependent Individuals Act (Act), 102 Stat. at 3248. The Act amends the Job Training Partnership Act (JTPA) by adding a new JTPA title V and redesignating the preexisting title V and later portions of JTPA. The new JTPA title V (29 U.S.C. 1791 *et seq.*) establishes an incentive bonus program for States which provide services to certain categories of individuals and move these individuals off various assistance programs and into employment.

Rulemaking History

On October 13, 1982, the Job Training Partnership Act (JTPA) was enacted to establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment. Public law 97-300, as amended; 29 U.S.C. 1501 *et seq.*

Title I of JTPA sets forth general requirements for programs under JTPA, as well as some requirements for State operation of programs under JTPA. Title II of JTPA provides requirements for State operation of adult and youth programs under JTPA. Title III of JTPA provides for operation of State and local programs of employment and training assistance for dislocated workers. Title IV provides requirements for special programs for targeted groups, such as Native Americans and migrant farmworkers; as well as for the Job Corps, veterans and other specialized programs.

Amendments to JTPA were enacted in the Job Training Partnership Act Amendments, Public Law 97-404 (December 31, 1982); the Carl D. Perkins Vocational Education Act, Public Law 98-524 (October 19, 1984); the Job Training Partnership Act Amendments of 1986, Public Law 99-496 (October 16, 1986); the Homeless Eligibility Clarification Act, title XI of the Anti-Drug Abuse Act of 1986, Public Law 99-570 (October 27, 1986); and the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), title VI, subtitle D of the Omnibus Trade and Competitiveness Act, Public Law 100-418 (August 23, 1988). See also section 713(b) of Public Law 99-159, National Science, Engineering, and Mathematics Authorization Act of 1986, which contains technical amendments to the Carl D. Perkins Vocational Education Act which, in turn, amend JTPA.

Final regulations promulgated by the Department of Labor (the Department or DOL) to implement the provisions of the Act were published in the **Federal Register** at 48 FR 11078 (March 15, 1983); 48 FR 48753 (October 20, 1983); 48 FR 49198 (October 24, 1983); and 48 FR 52438 (November 18, 1983). See 20 CFR parts 626-636 and 684 (1988).

These regulations have been amended by **Federal Register** publication on three additional occasions: On April 26, 1985, at 50 FR 16473, as corrected on June 13, 1985, at 50 FR 24764; on August 29, 1986, at 51 FR 30856; on February 12, 1988, at 53 FR 4262; and on September 22, 1989, at 54 FR 39118.

On December 7, 1989, DOL published a proposed rule to establish regulations for incentive bonus programs (54 FR 50584). (See 29 U.S.C. 1791i(e).) Comments were requested through February 5, 1990.

Discussion of Proposed Rule, Comments, and Final Rule

Nineteen sets of comments were received in response to the proposed rule. Thirteen were received from States and State-level agencies. Six were from local entities, including three private industry councils (PICs).

Major comments on the proposed rule and DOL's analysis of and reaction to those comments are discussed below. No changes have been made in the final rule.

The comments received can be grouped into two major categories: (1) Concerns related to statutory requirements; and (2) administrative concerns related to program operations.

Statutory Requirements

Five States and one State job training coordinating council (SJTCC) commented on the definition of "long-term recipient" found in § 637.2 and suggested that this definition be changed to conform with the definition currently used for reporting purposes in JTPA. Such a change is not possible, however, since this definition is specified in section 502(3) or the JTPA, as amended by the Act.

One State commented that § 637.10 should specify that the amount of funds appropriated under any title of JTPA must not be reduced in order to provide funds for title V. Section 3(e)(1) of JTPA states only that no funds appropriated under JTPA may be used for title V unless the funds appropriated for title II-A exceed any change in the Consumer Price Index from the amounts appropriated for title II-A the previous fiscal year. To change the proposed rule as suggested by the State would go far beyond the authority provided under the law.

One State commented on § 637.14 concerning the participation requirements for States receiving startup grants. It proposed that States applying for startup grants should be allowed to participate on a yearly basis, rather than requiring that they agree to participate for two consecutive years. The requirement for participation for a period of not less than two consecutive years, however, is statutory pursuant to section 510(c)(3)(A) of JTPA, as amended by the Act. Two other States commented on another portion of § 637.14 and requested clarifying language specifying how much money would be available for startup grants. Section 3(e)(3) of JTPA does provide that from the amounts appropriated for title V, no more than $5 million may be used for startup grants.

One State commented that the regulations at § 637.15 should acknowledge that some labor markets may not be able to provide all participants with unsubsidized employment which allows them to become self-sufficient. Since the purpose of the Act, however, is to reward States for the placement of such individuals in unsubsidized employment which in turn allows them to no longer need welfare

assistance, the suggested statement would not be consistent with the Act.

Operational Concerns

Eight States and two PICs commented on the feasibility and expense of tracking the required data elements for the computation of placement bonuses as outlined in § 637.15 of the proposed regulations. The commenters stated that there would have to be either extensive and costly revisions to existing data collection systems or the development of entirely new systems. One commenter also pointed out that States may not be able to track program participants for the length of time necessary using current systems. While the Department appreciates these difficulties, the required data elements are statutory.

Four States commented on the provisions in § 637.16(d) regarding the calculations for the bonus base period. They stated that it would be both difficult and costly to secure the necessary data for Program Year (PY) 1987 (July 1, 1987 through June 30, 1988). One of the States suggested using PY 1990 as the base year. Section 505(a) of JTPA, as amended by the Act, does not allow the Department the flexibility to unilaterally prescribe an alternative base year for the States. However, pursuant to that section and § 637.16(d) of the regulations, each State may request the Department to approve a base period other than PY 1987.

Commenting in general on the data requirements set forth in §§ 637.15 and 637.16, one State observed that the required tracking would create an excessive administrative workload without substantially increasing service to welfare recipients. Another State indicated that since the amount a State would receive in bonuses is uncertain, the decision to make the major investment this system may require will be difficult to justify.

Eight States and one PIC stated that guidance in the form of technical assistance, a handbook, or both, should be provided by the Department. Of specific concern was assistance in eligibility determination, tracking procedures, precise data collection requirements, and sources for required data. Finally, two States and one PIC indicated that they would not consider participating in the program until funds become available.

While these comments cannot be addressed in regulations, they will be of assistance to the Department once the program becomes operational. The Department is constrained in addressing many of these operational concerns by the provisions of the statute itself which specifically outline the eligibility requirements which are necessary for the receipt of bonuses. The sources for the data elements and the tracking procedures were not prescribed in the regulations in an effort to allow each State as much flexibility as possible to use its own existing data and systems to comply with the statutory requirements. The regulations at § 637.16(f) require that States maintain written procedures describing the methods used for determining eligibility and placements during the bonus base period. Section 637.12(d) requires the State to certify that documentation is available for the individuals for whom a bonus is being claimed. In this way it was felt that the Department could maintain quality control while not being prescriptive.

Regulatory Impact

The rule affects only States and service delivery areas which receive funds under the Job Training Partnership Act. It will not have the financial or other impact to make it a major rule, and preparation of a regulatory impact analysis is unnecessary. See E.O. 12291, 5 U.S.C. 601 note.

At the time the proposed rule was published, the Department of Labor certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act, all information collection requirements imposed by these regulations have been approved by the Office of Management and Budget as a final rule under OMB No. 1205-0292 expiring March 31, 1993.

Public reporting burden for this collection of information is estimated to average two hours per individual claimed in each response, including the 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 the Office of Information Management, Department of Labor, Room N-0301, 200 Constitution Avenue NW., Washington, DC 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1205-0276), Washington, DC 20503.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at No. 17-250, "Job Training Partnership Act (JTPA)" (JTPA Titles I and II Programs).

List of Subjects

20 CFR Part 626

Grant programs—labor, Manpower training programs.

20 CFR Part 627

Grant programs—Labor, Manpower training programs, Reporting and recordkeeping requirements.

20 CFR Part 629

Administrative practice and procedure, grant programs—labor, Investigations, manpower Training programs, Reporting and recordkeeping requirements.

20 CFR Part 637

Grant programs—labor, Manpower training programs, Dislocated worker programs, Reporting and recordkeeping requirements.

Final Rule

Accordingly, chapter V of title 20, Code of Federal Regulations, is amended as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

1. The authority citation for part 626 is revised to read:

Authority: 29 U.S.C. 1579(a); Section 6305(f), Pub. L. 100-418, 102 Stat. 1107; 29 U.S.C. 1791i(e).

2. In § 626.3, the consolidated table of contents for the Job Training Partnership Act regulations is amended as follows:

(a) By removing the heading "PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, AND III OF THE JOB TRAINING PARTNERSHIP ACT" and inserting in lieu thereof the heading "PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, III AND V OF THE JOB TRAINING PARTNERSHIP ACT"; and

(b) By removing the entry "PARTS 637-638—[RESERVED]" inserting in lieu thereof the following:

626.3 Table of contents for the regulations under the Job Training Partnership Act.

* * * * *

PART 637—PROGRAMS UNDER TITLE V OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.
637.1 Scope and purpose.
637.2 Definitions.

Subpart B—Program Planning and Operation

637.10 Allotments to States.
637.11 Notice of intent to participate.
637.12 Incentive bonus program applications.
637.13 Review, verification and approval of applications for incentive bonus payments.
637.14 Startup grants.
637.15 Eligibility criteria for individuals eligible to be counted in determining incentive bonuses.
637.16 Determination of incentive bonus.
637.17 Determination of placement bonus base.
637.18 Use of incentive bonuses.

Subpart C—Additional Title V Administrative Standard Procedures

637.20 Management systems, reporting, and recordkeeping.
637.21 Federal monitoring and oversight.
637.22 Audits.

Subpart D—Data Collection [Reserved]

* * * * *

§ 626.4 [Amended]

3. Section 626.4 is amended by removing from the introductory language the term "titles I, II, and III of the Act" and inserting in lieu thereof the term "titles I, II, III, and V of the Act".

PART 627—STATE RESPONSIBILITIES UNDER THE JOB TRAINING PARTNERSHIP ACT

4. The authority citation for part 627 is revised to read:

Authority: 29 U.S.C. 1579(a); Sec. 6305(f), Pub. L. 100-418, 102 Stat. 1107; 29 U.S.C. 1791i(e).

§ 627.4 [Amended]

5. Section 627.4 is amended by amending paragraph (b) to remove the number "501" and insert in lieu thereof the number "601."

6. The Authority citation to part 629 is revised to read:

Authority: 29 U.S.C. 1579(a); Sec. 6305(f), Pub. L. 100-418, 102 Stat. 1107; 29 U.S.C. 1791i(e).

7. The heading for part 629 is revised to read as follows:

PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, III, AND V OF THE JOB TRAINING PARTNERSHIP ACT

8. Section 629.1 is amended as follows:

(a) By removing from paragraphs (a), (b), and (e) the phrase "titles I, II, and III" and inserting in lieu thereof the phrase "titles I, II, III, and V"; and

(b) By adding a new paragraph (f), to read as follows:

§ 629.1 General program requirements.

* * * * *

(f) Each reference in this part to title II of the Act or any part of title II shall apply as well to title V of the Act and to programs under part 637 of this chapter.

9. A new part 637 is added, to read as follows:

PART 637—PROGRAMS UNDER TITLE V OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.
637.1 Scope and purpose.
637.2 Definitions.

Subpart B—Program Planning and Operation

637.10 Allotments to States.
637.11 Notice of intent to participate.
637.12 Incentive bonus program applications.
637.13 Review, verification and approval of applications for incentive bonus payments.
637.14 Startup grants.
637.15 Eligibility criteria for individuals eligible to be counted in determining incentive bonuses.
637.16 Determination of incentive bonus.
637.17 Determination of placement bonus base.
637.18 Use of incentive bonuses.

Subpart C—Additional Title V Administrative Standards and Procedures

637.20 Management systems, reporting and recordkeeping.
637.21 Federal monitoring and oversight.
637.22 Audits.

Subpart D—Data Collection [Reserved]

Authority: 29 U.S.C. 1579(a); 29 U.S.C. 1791i(e).

Subpart A—General Provisions

§ 637.1 Scope and purpose.

(a) This part implements title V of the Act which creates a program to provide incentive bonuses to States in which certain employable dependent individuals are successfully placed in jobs.

(b) This part applies to programs operated with funds under title V of the Job Training Partnership Act.

§ 637.2 Definitions.

In addition to the definitions contained in sections 4, 301, 303(e), and 502 of the Act and in § 626.4 of this chapter, the following definitions apply to the administration of title V of the Act and this part:

Continuous employment means gainful employment under which any wages or salaries are reportable for unemployment insurance purposes, when such wages or salaries are earned during a total of 4 out of 5 consecutive calendar quarters from employment with one or more employers (section 502(4)).

Department (DOL) means the United States Department of Labor.

Disability assistance means benefits offered pursuant to Title XVI of the Social Security Act, relating to the supplemental security income program (section 502(2)).

Federal contribution means the amount of the Federal component of cash payments to individuals within the participating State under welfare and/or disability assistance programs, including part A of title IV of the Social Security Act (section 502(6)).

Head of household means an individual physically residing in the same household with a dependent child or children related by birth, marriage or adoption.

JTPA and *Act* mean the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*), as amended.

Layoff means a reduction in force that is not the result of a permanent plant closure, but which results in an employment loss for an indefinite period (i.e., no date for the employees' return to work has been established).

Long-term recipient means an individual who has received welfare and/or disability assistance benefits for 24 months during the 28-month period immediately proceding application for programs under this part (section 502(3)).

Marketable or significant work experience means experience in a paid, unpaid, or supported work setting performing functions that resulted in the acquisition of skills, abilities, and knowledge sufficient to enhance an individual's employability to the extent that the individual can apply and be considered for unsubsidized employment positions on a competitive basis with other applicants. Such employment positions shall be considered to be those for which the participant would not have qualified prior to participation in programs under this part.

Natural disaster means a hurricane, tornado, storm, flood, highwater, wind-driven water, tidal wave, tsunami, earthquake, volcanic erruption, landslide, mudslide, drought, fire,

explosion, or other natural catastrophe which results in the loss of employment.

Permanent closure of a plant or facility means a plant or facility that has terminated all employment at the plant or facility site and does not intend to reopen the plant or resume business on that site and where the plant or facility is not expected to be sold and reopened by another owner.

Program year means the annual period from July 1 through June 30.

Successful participation in education means the condition when an eligible individual has:

(1) Reenrolled in secondary school or its equivalent and matriculated to the next grade level or its equivalent within 1 year of enrollment;

(2) Enrolled in an accredited vocational or technical school not less than full time and has made satisfactory progress in a course of study which can reasonably be expected to lead to employment; or

(3) Obtained the equivalent of a secondary school diploma within 12 months following the individual's determination of eligibility for the incentive bonus program (section 504(c)).

Successful participation in other activities means the condition when an eligible individual has completed those activities that provide an individual with the skills necessary to apply for and be considered for unsubsidized employment opportunities on a competitive basis with other applicants. Such employment opportunities shall be considered to be those for which the participant would not have qualified prior to participation in programs under this part.

Successful participation in training means the condition when an eligible individual has successfully completed a training program offered under JTPA, including a regionally accredited vocational skill classroom training program, an on-the-job training program or a work experience program, which can reasonably be expected to lead to unsubsidized employment.

Supported employment means competitive work in integrated work settings:

(1) For individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

(2) For individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who, because of their handicap, need ongoing support services to perform such work. Such term includes transitional employment for individuals with chronic mental illness (section 502(5)).

Welfare assistant means:

(1) Cash payments made pursuant to part A of title IV of the Social Security Act, relating to aid to families with dependent children (AFDC).

(2) General welfare assistance to Indians, as provided pursuant to the Act of November 2, 1921 (24 U.S.C. 13), commonly referred to as the Snyder Act; or

(3) Cash assistance and medical assistance for refugee made available pursuant to section 412(e) of the Immigration and Nationality Act (8 U.S.C 1522(e)) (section 502(1)).

Subpart B—Program Planning and Operation

§ 637.10 Allotments to States.

(a) Funds appropriated to carry out programs under this part may be used by the Secretary for such programs only if the total funds appropriated under title II-A of JTPA for the same program year exceed the total of the funds appropriated for the title II-A program for the previous program year adjusted by the change in the Consumer Price Index for All Urban Consumers since the previous year appropriation (section 3(e)(2)).

(b) For each program year for which funds are appropriated to carry out programs under this part, the Secretary shall pay to each participating State the amount the State is eligible to receive in accordance with this part. No payments shall be made for any years for which funds are not appropriated and/or not available (section 507(a)).

(c) If the appropriation is not sufficient to pay to each State the amount it is eligible to receive in accordance with this part, the State shall receive a percentage of the total available funds equal to the percentage of its bonus compared to the national total of bonuses (section 507(b)).

(d) If an additional amount is made available after the application of paragraph (c) of this section, such additional amount shall be allocated among the States by increasing payment in the same manner as was used to reduce payment, except that no State shall be paid an amount which exceeds the amount to which it is eligible (section 507(c)).

(e) Following the submission and approval of an application for an incentive bonus payment, but prior to receipt of such payment, Governors may reserve from State funds an amount equal to the amount of the approved bonus incentive request and may use such amount for activities authorized under this program. Subsequent bonus payments received may be used for reimbursement of such expenditures (section 508(a)).

§ 637.11 Notice of intent to participate.

(a) Any State seeking to participate in the incentive bonus program shall notify the Secretary of its intent to do so no later than 30 days before the beginning of its first program year of participation (i.e., June 1) (section 506(a)).

(b) Pursuant to instructions issued by the Secretary, the notification referenced in paragraph (a) of this section shall be in the form of a letter from the Governor to the Secretary advising the Secretary of the State's intention to apply for, receive and expend bonuses under this program in a manner consistent with this part (section 506(b)(2)).

(c) The notice of intent to participate shall also advise the Secretary of a decision by any service delivery area not to participate in the program (section 506(d)).

(d) Incentive bonuses may be claimed by a State for individuals who participate in education, training, or other activities under JTPA and are placed in employment after the State's submission of a notice of intent to participate.

(e) A Governor may withdraw the State's participation in the incentive bonus program in any program year by submitting a written notice of withdrawal. A State that decides to withdraw must assure that it is in compliance with the requirements of § 637.14(d) of this part. (Approved by the Office of Management and Budget under control number 1205-0292)

§ 637.12 Incentive bonus program applications.

(a) Any State participating in title V activities shall have a written procedure for establishing the eligibility of individuals for whom an incentive bonus may be claimed and for tracking the activities of such individuals to assure that they comply with all statutory requirements necessary to qualify for an incentive bonus. A copy of this written procedure shall be provided to the Secretary no later than March 31 of the State's first program year of participation. Modifications to the procedure shall be provided immediately.

(b) Any State seeking to receive an incentive bonus under this title shall submit an Incentive Bonus Program application pursuant to instructions issued by the Secretary (section 506(b)(1)).

(c) Such application for any program year shall be submitted by the State to the Secretary no later than August 31 following the end of the program year for which the bonus is being claimed. A copy of such application shall also be submitted at the same time to the appropriate DOL Employment and Training Administration Regional Office.

(d) A State shall submit with each Incentive Bonus Program application a certification that documentation is available to support that each individual for whom a bonus is being claimed did, in fact, meet the requirements of § 637.15 of this part.

(e) All documentation referenced in paragraph (c) of this section shall be available to the Secretary, as determined necessary by the Secretary, for verification and audit purposes.

(Approved by the Office of Management and Budget under control number 1205–0292)

§ 637.13 Review, verification and approval of applications for incentive bonus payments.

(a) The Secretary shall review all applications for overall compliance with JTPA, the requirements of this part, and the instructions issued by the Secretary.

(b) The Secretary shall verify the accuracy of the information contained in each application using a sampling methodology developed by the Department of Labor and approved by the Comptroller General of the United States (section 506(c)).

(c) The Secretary shall accept for payment purposes the State's eligibility finding for an individual unless the Secretary establishes that such individual is not eligible. If the Secretary establishes that such individual is not eligible, the amount of the incentive bonus payment shall be reduced accordingly (section 506(c)).

(d) The Secretary shall inform a State within 60 days after receipt of the application as to whether or not its application has been approved (section 506(c)).

(e) Where less than 10 percent of any sample, selected in accordance with the procedure established under paragraph (b) of this section, contains questioned information, such application shall be approved, but the amount of the bonus payment shall be reduced proportionately by the percentage of the sample questioned.

(f) When more than 10 percent of any sample contains questioned information, such application shall be denied. Subject to paragraph (g) of this section, the State shall then be required to review all the information contained in the application and resubmit it.

(g) Whenever the Department questions, pursuant to paragraph (e) or (f) of this section, a State's application for an incentive bonus payment, an initial notice of reduction or denial of payment shall be issued. The Governor will then be provided sufficient time to respond to the reasons for such denial before a final decision is made. The Department will work with the State to resolve any question raised during the verification review.

(h) If additional information provided does not resolve questions raised during the verification review, a final denial of payment shall be issued. The Governor may then appeal the decision in accordance with the procedures at §§ 629.54(d) and 629.57 of this chapter.

§ 637.14 Startup grants.

(a) *General.* (1) Each State agreeing to participate shall be eligible to apply for startup funds which may be available for expenditure during the first 2 years of the State's participation in the program (section 510(c)(3)(A)).

(2) Expenditure of any portion of the State startup grant funds shall be considered an agreement by the State to participate in this program for not less than two consecutive program years, beginning with the first program year in which these incentive grant funds may be expended. Expenditure of the startup funds may commence at the start of the program year following the program year in which the determination to provide startup grant funds is made (section 510(c)(3)(A)).

(b) *Application.* (1) Any State wishing to apply for startup funds shall submit to the Secretary a State startup grant application no later than 120 days before the beginning of the first program year of the State's participation in the incentive bonus program (section 510(a)).

(2) Such application shall include at a minimum the following information:

(i) A line item budget listing the specific activities for which funds are being requested, and the requested amount for each activity;

(ii) A justification of need for each activity including a description of how the activity would facilitate participation; and

(iii) The total amount of funds requested.

(c) *Determination of Awards.* The Secretary shall determine the amount to be awarded to the State based on the need demonstrated in the application. The Secretary shall notify the State of this determination within 60 days of submission (sections 510(c) (1) and (2)).

(d) Where a State decides not to submit the notice of intent to participate as required under this part, the State shall not incur any costs against any funds awarded in accordance with this section. In such a situation, all funds awarded by the Secretary pursuant to this section shall be recaptured by the Secretary.

(e) Any amount of any award of startup costs made to a State, against which costs have not been incurred by the end of the second program year following the program year in which the determination was made, shall be reallocated and reobligated to one or more other participating States. In accordance with section 161(b) of the Act, costs may be incurred against such reallotted funds only during the third program year following the program year in which the funds were originally awarded (section 510(c)(3)(B)).

(f)(1) Startup grant funds shall be used for activities described in section 508(b) of the Act and for higher costs incurred in overcoming the substantial barriers to employment experienced by eligible individuals under this part (section 510(c)(3)(C)).

(2) Startup grant funds may be allocated by the State to State agencies or service delivery areas within the State for activities consistent with paragraph (f)(1) of this section (section 510(d)).

(Approved by the Office of Management and Budget under control number 1205–0292)

§ 637.15 Eligibility criteria for individuals to be counted in determining incentive bonuses.

(a)(1) In determining the State entitlement to an incentive bonus payment, a State may count individuals who meet the requirements of paragraph (b) of this section, provided that:

(i) Such individuals are in excess of the total number of such eligible individuals placed in employment in the State during the base period as established in this part (section 505(a)); and

(ii) Such individuals no longer receive cash benefits provided under welfare assistance or disability assistance, unless receipts of such cash benefit:

(A) Is limited to 1 calendar quarter, or an equivalent period, during 5 calendar quarters used to determine continuous employment; and

(B) Was caused by a termination of employment due to a layoff or permanent closure of a plant or facility or a relocation of Federal facilities or a natural disaster (section 504(a)(4)).

(2) Individuals counted pursuant to paragraph (a)(1) of this section must also:

(i) Have successfully participated in education, training, or other activities, irrespective of funding source (section 504(a)(1));

(ii) Have been placed in unsubsidized continuous employment, or supported employment following such participation (section 504(a)(2)); and

(iii) Receive from such employment a qualified wage or income which is greater than or equal to such individual's placement bonus base (section 504(a)(3)).

(b) An individual shall be eligible to be counted as part of the State's entitlement to an incentive bonus payment under this part if the individual meets the requirements of paragraph (a) of this section and is:

(1) A long-term recipient of welfare assistance, who is the head of a household; and had no marketable or significant work experience during the year preceding determination of eligibility for this program under the Act;

(2) A young recipient who is the head of household; was receiving welfare assistance at the time determination of eligibility was made for this program under this Act; has not attained 22 years of age; and has not completed secondary school or its equivalent; and had no marketable or significant work experience during the year preceding determination of eligibility for programs offered under this part;

(3) A blind or disabled recipient who is a long-term recipient of disability assistance; and had no marketable or significant work experience during the year preceding determination of eligibility for programs offered under this part; or

(4) A young blind or disabled recipient who has not attained 22 years of age; was receiving disability assistance at the time determination of eligibility was made for programs under this Act; and had no marketable or significant work experience during the year preceding such determination of eligibility (section 503).

§ 637.16 Determination of incentive bonuses.

(a) The amount of the incentive bonus to which a State shall be entitled shall be determined in accordance with the requirements in this section.

(b) The 3-year period for claiming bonuses for any particular individual shall begin on the date that such individual first successfully completes the eligibility requirements that the State utilized as the basis for claiming initial bonus.

(c) The total incentive bonus to which a State shall be entitled shall be the sum of the incentive bonuses for each eligible individual. For purposes of claiming an incentive bonus, an individual shall be determined eligible to be included if the participant successfully completes each performance requirement prior to the end of the program year for which the total incentive bonus is being claimed by the State. Performance requirements are:

(1) *For the first year*—(i) *For the long-term recipient.* Such individual must have successfully participated in education, training or other activities provided under JTPA; successfully completed one year of unsubsidized continuous employment; received a wage or income which is greater than or equal to such individual's placement bonus base; and no longer receives welfare assistance (section 504(a)).

(ii) *For the young recipient.* Such individual must have successfully participated in education, training or other activities provided under JTPA; successfully completed one year of unsubsidized continuous employment; received a wage or income which is greater than or equal to such individual's placement bonus base; and no longer receives welfare assistance (section 504 (a) and (c)).

(iii) *For the blind or disabled recipient.* Such individual must have successfully participated in education, training or other activities provided under JTPA; successfully completed one year of unsubsidized continuous employment or one year of supported employment following participation in JTPA activities; received a wage or income which is greater than or equal to such individual's placement bonus base; and no longer receives disability assistance (section 504(a)).

(iv) *For the young blind or disabled recipient.* Such individual must have successfully participated in education, training or other activities provided under JTPA; successfully completed one year of unsubsidized continuous employment or one year of supported employment following participation in JTPA activities; received a wage or income which is greater than or equal to such individual's placement bonus base; and no longer receives disability assistance (section 504 (a) and (c)).

(2) *For the second year.* All individuals for whom a placement bonus was approved for a first year must meet the same first year bonus payments requirements in the second year as they met for the first year bonus payment except that participation in training, education or other activities will not be required. This includes a second year of continuous employment or supported work. For purposes of determining continuous employment, the second year shall begin with the quarter following the last quarter used in determining the first year's continuous employment period.

(3) *For the third year.* All individuals for whom a placement bonus was approved for a second year must meet the same second year bonus payment requirements in the third year as they met for the second year bonus payment. This includes a third year of continuous employment or supported work. For the purposes of determining continuous employment, the third year shall begin with the quarter following the last quarter used in determining the second year's continuous employment period.

(d) Placement bonuses may only be claimed for successful placements in excess of the number of such placements of individuals meeting the eligibility requirements in this part made in the State during Program Year (PY) 1987 or such other base period as provided by agreement between the Governor and the Secretary. To establish the base period a State shall submit, pursuant to instructions issued by the Secretary, base period documentation to the Secretary no later than March 31 of the first program year of a State's participation in the Incentive Bonus Program. Such documentation must include the total number of placements of eligible individuals made in the State during PY 1987 or such other year as may be agreed to by the Governor and the Secretary. If the State wishes to request a base period other than PY 1987, it must explain the reasons for requesting such base period and include documentation of the total number of eligible individuals made in the State during that proposed base period, as well as during PY 1987. If no agreement can be reached, PY 1987 shall be the base period. The Secretary shall consider the request for the establishment of such base period and respond to the request in a timely fashion. Pursuant to section 505(a) of the Act, the Secretary reserves the right to suggest a different base period. The final decision on a base period shall be reached pursuant to agreement between the Secretary and the Governor (section 505(a)).

(e) In computing the number of successful placements in the base period, the State shall document all such placements of individuals eligible under this part who participated in the same types of programs or activities which the State will use in subsequent program years to determine eligibility for incentive bonuses. The State shall

maintain written procedures describing the methods used to determine eligibility and placements during the base year.

(f) The dollar amount of the placement bonus for each eligible individual for each year shall be 75 percent of the placement bonus base (section 505(a)).

§ 637.17 Determination of placement bonus base.

(a) The placement bonus base for the long-term recipient is equal to one-half of the sum of the Federal contribution to amounts received by the long-term recipient and family for the two years prior to determination of eligibility under this part under:

(1) Part A of title IV of Social Security Act (42 U.S.C. 601 *et seq.*); or

(2) General welfare assistance under the Snyder Act (25 U.S.C. 13); or

(3) Section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)), relating to cash assistance and/or medical assistance to refugees (section 5050(b)(1)).

(b) The placement bonus base for the young recipient, who has received benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*), or general welfare assistance under the Snyder Act (25 U.S.C. 13), or section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e) relating to cash assistance and/or medical assistance, is equal to the annual amount to which the young recipient would have been entitled for the one year period prior to the determination of eligibility under this part (section 505(b)(2)).

(c) The placement bonus base for the blind or disabled recipient is equal to one-half of the sum of the Federal contribution in amounts received by the blind or disabled recipient under title XVII of the Social Security Act (42 U.S.C. 1801 *et seq.*) for the two years prior to determination of eligibility under this part (section 505(c)(1)).

(d) The placement bonus base for the young blind or disabled recipient who has received benefits under title XVI of the Social Act (42 U.S.C. 1801 *et seq.*) is equal to the annual amount to which the young blind or disabled recipient would have been entitled for the one year period prior to the determination of eligibility under this part (section 505(c)(2)).

§ 637.18 Use of incentive bonuses.

(a) During any program year, the Governor may use an amount not to exceed 15 percent of the State's total bonus payment, or an amount reserved from State funds which is equivalent to not more than 15 percent of the amount of the approved bonus payments, for the administrative costs incurred under this program, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses (section 508(b)(1)(A)).

(b) The remainder, not less than 85 percent of the incentive bonuses received, shall be distributed to participating SDAs by an equitable method of distribution which is based on the degree to which the effort of the SDA contributed to the State's qualification for incentive bonus funds. The Governor and representatives of participating SDAs shall agree on the method of distribution to be used (section 508(b)(1)(B)).

(c) Except as provided in paragraph (d) of this section, SDAs may use a maximum of 10 percent of the incentive bonus received from the State for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including incentive payments described in section 508(c) of the Act, technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities (section 508(b)(2)(A)).

(d) If an SDA determines that administrative costs will exceed 10 percent, the SDA may, in accordance with criteria and guidelines established by the Governor, and subject to approval by the Governor, use an additional 5 percent for administration (section 508(b)(2)(B)).

(e) All remaining funds received by the SDA shall be used for activities similar to activities described in section 204 of JTPA and shall be subject to regulations governing the operation of programs under title II–A of JTPA (section 508(B)(2)(A)).

Subpart C—Additional Title V Administrative Standards and Procedures

§ 637.20 Management systems, reporting and recordkeeping.

(a) The Governor shall ensure that the State's financial management system and recordkeeping system comply with § 629.35 of this chapter.

(b) Notwithstanding the provisions of § 629.36 of this chapter, the Governor shall report to the Secretary pursuant to instructions issued by the Secretary regarding activities funded under this part. Reports shall be required semi-annually and annually. Reports shall be provided to the Secretary within 45 calendar days after the end of the report period (section 165(a)(2)).

(c) The Governor shall assure that appropriate and adequate records are maintained for the required time period to support all incentive bonus payment applications. Such records shall include documentation to support individual's eligibility under this part.

(Approved by the Office of Management and Budget under control number 1205–0292)

§ 637.21 Federal monitoring and oversight.

The Secretary shall conduct oversight of the programs and activities conducted in accordance with this part. The Secretary shall issue separate guidelines regarding the process to be followed in conducting such oversight.

§ 637.22 Audits.

The Governor shall ensure that the State complies with the audit provisions at § 629.42 of this chapter.

Subpart D—Data Collection [Reserved]

Signed at Washington, DC, this 19th day of December 1990.

Roderick A. DeArment,

Acting Secretary.

[FR Doc. 90–30168 Filed 12–26–90; 8:45 am]

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federal register

Thursday,
December 27, 1990

Part V

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Proposed Actions Under the Guidelines and Meeting of Advisory Committee; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on February 4, 1991. The meeting will be held at the National Institutes of Health (NIH), Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. to adjournment at approximately 5 p.m. The meeting will be open to the public to discuss the following proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958):

Proposed Major Actions to the NIH Guidelines;

Two additions to appendix D of the NIH Guidelines Regarding Human Gene Transfer Protocol;

Revision of appendix K of the NIH Guidelines Regarding Establishment of Guidelines for Level of Containment Appropriate to Good Industrial Large Scale Practices (GILSP);.

Amendment to appendix B–I–B–1 of the NIH Guidelines regarding Salmonella Typhimurium LT2.

Report from the Planning Subcommittee in Charge of Reviewing Comments Received During the Regional Hearings Conducted by the Recombinant DNA Advisory Committee Concerning Future Role of this Committee;

Other Matters To Be Considered by the Committee.

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892, telephone (301) 496–9838, fax (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: December 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–30245 Filed 12–26–90; 8:45 am]

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Recombinant DNA Research: Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of Proposed Actions Under the *NIH Guidelines for Research Involving Recombinant DNA Molecules* (51 FR 16958).

SUMMARY: This notice sets forth proposed actions to be taken under the *National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules.* Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on February 4, 1991. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions in accordance with the *NIH Guidelines.*

DATES: Comments received by January 22, 1991, will be reproduced and distributed to the RAC for consideration at its February 4, 1991, meeting.

ADDRESS: Written comments and recommendations should be submitted to Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, or sent by fax to 301–496–9839.

All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, Building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the *NIH Guidelines for Research Involving Recombinant DNA Molecules:*

I. Addition to Appendix D of the "NIH Guidelines" Regarding a Human Gene Transfer Protocol/Dr. Lotze

In a letter dated September 13, 1990, Dr. Michael T. Lotze of the University of Pittsburgh School of Medicine indicated his intention to submit a human gene transfer protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is:

"The Administration of Interleukin-2, Interleukin-4, and Tumor Infiltrating Lymphocytes to Patients with Melanoma."

The protocol was reviewed by the Human Gene Therapy Subcommittee during its November 30, 1990, meeting. The subcommittee recommended provisional approval pending receipt of the following additional information. The patient consent form is to be modified in response to the requests of the subcommittee. The investigator is to present a more detailed description of the studies designed to characterize the homing properties of tumor-infiltrating lymphocytes.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during its February 4, 1991, meeting.

II. Addition to Appendix D of the "NIH Guidelines" Regarding Human Gene Transfer Protocol/Dr. Brenner

In a letter received on October 5, 1990, Dr. Malcolm K. Brenner of St. Jude Children's Research Hospital of Memphis, Tennessee, indicated his intention to submit a human gene transfer protocol to the Human Gene Therapy Subcommittee and the Recombinant DNA Advisory Committee for formal review and approval. The title of the protocol is:

"Autologous Bone Marrow Transplant for Children with Acute Myelogenous

Leukemia (AML) in First Complete Remission: Use of Marker Genes to Investigate the Biology of Marrow Reconstitution and the Mechanism of Relapse."

The protocol was reviewed by the Human Gene Therapy Subcommittee during its November 30, 1990, meeting. The subcommittee recommended provisional approval pending receipt of the following additional information. The consent form should include statements about patient confidentiality. There should be additional information in the consent form about long-term patient reevaluation. There should be more specific detail about the transduction protocol and more detail about the molecular identification of blast colonies. An assent form should be developed for use with patients over the age of seven.

The Human Gene Therapy Subcommittee forwarded the protocol to the Recombinant DNA Advisory Committee for consideration during its February 4, 1991, meeting.

III. Revision of Appendix K of the "NIH Guidelines" Regarding Establishment of Guidelines for Level of Containment Appropriate to Good Industrial Large Scale Practices (GILSP)

Revision of appendix K of the *NIH Guidelines* Regarding Establishment of Guidelines for Level of Containment Appropriate to Good Industrial Large Scale Practices (GILSP). In a letter dated June 23, 1990, the Industrial Biotechnology Association (IBA) and the Pharmaceutical Manufacturers Association (PMA) requested that the Recombinant DNA Advisory Committee revise appendix K of the *NIH Guidelines* to reflect a formalization of suitable containment practices and facilities for the conduct of large-scale experiments involving recombinant DNA-derived industrial microorganisms. In attachments to this request, there are proposed definitions and requirements pertaining to the requested changes. During the RAC meeting on October 16, 1990, they considered the recommendations made by the Revision of the NIH Guidelines Subcommittee. Following a discussion, it was decided that further modifications of appendix K were necessary. Accordingly, the matter was referred back to the subcommittee.

The Revision of the NIH Guidelines Subcommittee met on December 7, 1990, with the following recommendations to the Recombinant DNA Advisory Committee for their meeting on February 4, 1991.

Proposed revision of appendix K reads as follows:

"Appendix K—Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

"This part of the Guidelines specifies physical containment guidelines for large—scale (greater than 10 liters of culture) research or production involving viable organisms containing recombinant DNA molecules. It shall apply to large-scale research or production activities as specified in section III–B–5 of the Guidelines. It is important to note that this appendix addresses only the biological hazard associated with organisms containing recombinant DNA. Other hazards accompanying the large scale cultivation of such organisms (e.g., toxic properties of products; physical, mechanical and chemical aspects of downstream processing) are not addressed and must be considered separately, albeit in conjunction with this appendix."

"All provisions of the Guidelines shall apply to large-scale research or production with the following modifications:

"• Appendix K shall replace portions of appendix G when quantities in excess of 10 liters of culture are involved in research or production. Appendix K–II applies to GLSP; Appendices G–I and G–II, as indicated in accompanying table, apply to Biosafety Levels (BL) BL1–LS, BL2–LS, and BL3–LS."

[Remainder of Introduction remains unchanged.]

"Appendix K–I—Selection of Physical Containment Levels.

"The selection of the physical containment level required for recombinant DNA research or production involving more than 10 liters of culture is based on the containment guidelines established in Part III of the Guidelines. For purposes of large-scale research or production, four physical containment levels are established. The four levels set containment conditions at those appropriate for the degree of hazard to health or the environment posed by the organism, judged by experience with similar organisms unmodified by recombinant DNA techniques and consistent with good large scale practices. These are referred to as GLSP, BL1–LS, BL2–LS, and BL3–LS. The GLSP (Good Large-Scale Practice) level of physical containment is recommended for large-scale research or production involving viable, non-pathogenic, and non-toxigenic recombinant strains derived from host organisms that have an extended history of safe large scale use. Likewise, the GLSP level of physical containment is recommended for organisms such as those included in appendix C that have built-in environmental limitations that permit optimum growth in the large scale setting but limited survival without adverse consequences in he environment. For those organisms that do not qualify for GLSP, the BL1–LS (Biosafety Level 1—Large-Scale) level of physical containment is recommended for large-scale research or production of viable organisms containing recombinant DNA molecules that require BL1 containment at the laboratory scale. The BL2–LS (Biosafety Level 2—Large Scale) level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules that require BL2 containment at the laboratory scale. The BL3–LS (Biosafety Level 3—Large Scale) level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules that require BL3 containment at the laboratory scale. No provisions are made for large-scale research or production of viable organisms containing recombinant DNA molecules that require BL4 containment at the laboratory scale. If necessary, these requirements will be established by NIH on an individual basis.

"Appendix K–II—GLSP Level.

"Appendix K–II–A. Institutional codes of practice shall be formulated and implemented to assure adequate control of health and safety matters.

"Appendix K–II–B. Written instructions and training of personnel shall be provided to assure that cultures of viable organisms containing recombinant DNA molecules are hanled prudently and that the workplace is kept clean and orderly.

"Appendix K–II–C. In the interest of good personal hygiene, facilities (e.g., handwashing sink, shower, changing room) and protective clothing (e.g., uniforms, laboratory coats) shall be provided that are appropriate for the risk of exposure to viable organisms containing recombinant DNA molecules. In addition, eating, drinking, smoking, applying cosmetics and mouth pipetting shall be prohibited in the work area.

"Appendix K–II–D. Cultures of viable organisms containing recombinant DNA molecules shall be handled in facilities intended to safeguard health during work with microorganisms that do not require containment.

"Appendix K–II–E. Discharges containing viable recombinant organisms shall be handled in accordance with applicable

governmental environmental regulations.

"Appendix K–II–F. Addition of materials to a system, sample collection, transfer of culture fluids within/between systems, and processing of culture fluids shall be conducted in a manner that maintains employee exposure to viable organisms containing recombinant DNA molecules at a level that does not adversely affect the health and safety of employees.

"Appendix K–II–G. The facility's emergency response plan shall include provisions for handling spills.

"Appendix K–III–A. Spills and accidents which result in overt exposures to organisms containing recombinant DNA molecules are immediately reported to the laboratory director. Medical evaluation, surveillance, and treatment are provided as appropriate and written records are maintained.

"Appendix K–IV–L. Closed systems and other primary containment equipment used in handling cultures of viable organisms containing recombinant DNA molecules shall be located within a controlled access area.

"Appendix K–IV–M–8. The controlled area shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential. If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the controlled area shall not be recirculated to other areas of the facility. The exhaust air from the controlled area may not be discharged to the outdoors without being HEPA filtered, subjected to thermal oxidation, or otherwise treated to prevent the release of viable organisms."

[Remainder of appendix K remains unchanged with the exception of the following: renumber appendix K–II–A becomes K–III–B; K–II–B becomes K–III–C; K–II–C becomes K–III–D; K–II–D becomes K–III–E; K–II–E becomes K–III–F; K–II–F becomes K–III–G; renumber appendix K–III to appendix K–IV; renumber appendix K–IV to appendix K–V.]

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*Appendix K -- Comparison of GLSP and BL-LS Practices[1].

	CRITERION[2]	GLSP	BL1-LS	BL2-LS	BL3-LS
1.	Formulates and implement institutional codes of practice for safety of personnel and adequate control of hygiene and safety measures.	K-II-A	G-I		
2.	Provide adequate written instructions and training of personnel to keep workplace clean and tidy and to keep exposure to biological, chemical or physical agents at a level that does not adversely affect health and safety of employees.	K-II-B	G-II ¶ 1		
3.	Provide changing and handwashing facilities as well as protective clothing, appropriate to the risk, to be worn during work.	K-II-C	G-II-A-1-h	G-II-B-2-f	G-II-C-2-i
4.	Prohibit eating, drinking, smoking, mouth pipetting, and applying cosmetics in the workplace.	K-II-C	G-II-A-1-d G-II-A-1-e	G-II-B-1-d G-II-B-1-e	G-II-C-1-c G-II-C-1-d
5.	Internal accident reporting.	K-II-D	K-III-A	G-II-B-2-k and G-II-B-2-l	G-II-C-2-q and G-II-C-2-r
6.	Medical surveillance.	NR	NR		
7.	Viable organisms should be handled in a system that physically separates the process from the external environment (closed system or other primary containment).	NR	K-III-B	K-IV-A	K-V-A
8.	Culture fluids not removed from a system until organisms inactivated.	NR	K-III-C	K-IV-B	K-V-B
9.	Inactivation of waste solutions and materials with respect to their biohazard potential.	K-II-E	K-III-C	K-IV-B	K-V-B
10.	Control of aerosols by engineering or procedural controls to prevent or minimize release of organisms during sampling from a system, addition of materials to a system, transfer of cultivated cells, and removal of material, products, and effluents from a system.	Minimize Procedure K-II-F	Minimize Engineer K-III-D	Prevent Engineer K-IV-C	Prevent Engineer K-V-C
11.	Treatment of exhaust gasses from a closed system to minimize or prevent release of viable organisms.	NR	Minimize K-III-E	Prevent K-IV-D	Prevent K-V-D
12.	Closed system that has contained viable organisms not to be opened until sterilized by a validated procedure.	NR	K-III-F	K-IV-E	K-V-E
13.	Closed system to be maintained at as a low pressure as possible to maintain integrity of containment features.	NR	NR	NR	K-V-F
14.	Rotating seals and other penetrations into closed system designed to prevent or minimize leakage.	NR	NR	Prevent K-IV-F	Prevent K-V-G
15.	Closed system shall incorporate monitoring or sensing devices to monitor the integrity of containment.	NR	NR	K-IV-G	K-V-H
16.	Validated integrity testing of closed containment system.	NR	NR	K-IV-H	K-V-I
17.	Closed system to be permanently identified for record keeping purposes.	NR	NR	K-IV-I	K-V-J
18.	Universal biohazard sign to be posted on each closed system.	NR	NR	K-IV-J	K-V-K
19.	Emergency plans required for handling large losses of cultures.	K-II-G	K-III-G	K-IV-K	K-V-L

NR = not required

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*Appendix K – Comparison of GLSP and BL-LS Practices[1] (continued).

CRITERION[2]		GLSP	BL1-LS	BL2-LS	BL3-LS
20.	Closed system to be located in a controlled access area.	NR	NR	K-IV-L	K-V-M
21.	Double doored entry into controlled access area.	NR	NR	NR	K-V-M-1
22.	Surfaces of walls, ceiling, and floors of controlled access area amenable to cleaning and decontamination.	NR	NR	NR	K-V-M-2
23.	Penetrations into controlled area sealed to permit decontamination.	NR	NR	NR	K-V-M-3
24.	All utilities and process piping and wiring into controlled area protected against contamination.	NR	NR	NR	K-V-M-4
25.	Handwashing facilities within controlled access area in major work areas and near each primary exit.	NR	NR	NR	K-V-M-5
26.	A shower facility to be provided in controlled access area.	NR	NR	NR	K-V-M-6
27.	Controlled area designed to preclude release of culture fluid in the event of closed system failure.	NR	NR	NR	K-V-M-7
28.	Controlled access area to have appropriate ventilation system.	NR	NR	NR	K-V-M-8
29.	Personnel entry into controlled access area through specified entry.	NR	NR	NR	K-V-N-1
30.	Personnel change clothing upon entry to and exit from controlled access area.	NR	NR	NR	K-V-N-2
31.	Restricted entry of safety trained personnel into controlled access area.	NR	NR	NR	K-V-N-3
32.	No person under 18 permitted in controlled access area.	NR	NR	NR	K-V-N-4
33.	Universal biohazard sign posted on entry and internal doors of controlled access area when work and decontamination in progress.	NR	NR	NR	K-V-N-5
34.	Controlled access area to be kept clean and neat.	NR	NR	NR	K-V-N-6
35.	Eating, drinking, smoking, and storage of food prohibited in controlled access area.	NR	NR	NR	K-V-N-7
36.	No plants or animals in controlled access area.	NR	NR	NR	K-V-N-8
37.	Insect control program for controlled access area.	NR	NR	NR	K-V-N-9
38.	Access doors to controlled access area to be closed when work in progress.	NR	NR	NR	K-V-N-10
39.	Persons to wash hands when leaving controlled access area.	NR	NR	NR	K-V-N-11
40.	Persons working in controlled access area to be trained in emergency procedures.	NR	NR	NR	K-V-N-12
41.	Equipment and materials for management of accidents to be kept in controlled access area.	NR	NR	NR	K-V-N-13
42.	Controlled access area to be decontaminated by established procedures after accidental release of organisms.	NR	NR	NR	K-V-N-14

NR = not required

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"Appendix K—Footnotes

"1. This table is derived from the text in appendices G and K and is not to be used in lieu of appendices G and K.

"2. The criteria in this grid address only the biological hazard associated with organisms containing recombinant DNA. Other hazards accompanying the large scale cultivation of such organisms (e.g., toxic properties of products; physical, mechanical and chemical aspects of downstream processing) are not addressed and must be considered separately, albeit in conjunction with this grid.

"Appendix K—Definitions to Accompany Containment Grid and Proposed Modification of appendix K.

"Accidental release—The unintentional discharge of a microbiological agent (i.e., microorganism or virus) or eukaryotic cell due to a failure in the containment system.

"Biological barrier—An impediment (naturally occurring or introduced) to the infectivity and/or survival of a microbiological agent or eukaryotic cell once it has been released into the environment.

"Closed system—A system, which by its design and proper operation, prevents release of a microbiological agent or eukaryotic cell contained therein.

"Containment—The confinement of a microbiological agent or eukaryotic cell that is being cultured, stored, manipulated, transported or destroyed in order to prevent or limit its contact with people and/or the environment. Methods used to achieve this include: Physical and biological barriers and inactivation using physical or chemical means.

"*de minimis* release—A release of viable microbiological agents or eukaryotic cells that does not result in the establishment of disease in healthy people, plants or animals or in uncontrolled proliferation of any microbiological agents or eukaryotic cells.

"Disinfection—A process by which viable microbiological agents or eukaryotic cells are reduced to a level unlikely to produce disease in healthy people, plants or animals.

"Good Large Scale Practice (GLSP) Organism—For an organism to qualify for GLSP consideration, it must meet the following criteria: [Reference: Organization for Economic Cooperation and Development, *Recombinant DNA Safety Considerations*, 1987, p. 34–35.

"a. The host organism should be non-pathogenic, should not contain adventitious agents and should have an extended history of safe industrial use or have built-in environmental limitations that permit optimum growth in the industrial setting but limited survival without adverse consequences in the environment.

"b. The recombinant DNA-engineered organism should be non-pathogenic, should be as safe in the industrial setting as the host organism, and without adverse consequences in the environment.

"c. The vector/insert should be well characterized and free from known harmful sequences; should be limited in size as much as possible to the DNA required to perform the intended function; should not increase the stability of the construct in the environment unless that is a requirement of the intended function; should be poorly mobilizable; and should not transfer any resistance markers to microorganisms not known to acquire them naturally if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture.

"Inactivation—Any process that destroys the ability of a specific microbiological agent or eukaryotic cell to self-replicate.

"Incidental release—The discharge of a microbiological agent or eukaryotic cell from a containment system that is expected when the system is appropriately designed and properly operated and maintained.

"Minimization—The design and operation of containment systems in order that any incidental release is a *de minimis* release.

"Pathogen—Any microbiological agent or eukaryotic cell containing sufficient genetic information, which upon expression of such information is capable of producing disease in healthy people, plants or animals.

"Physical barrier—Equipment, facilities and devices (e.g., fermentors, factories, filters, thermal oxidizers) designed to achieve containment.

"Release—The discharge of a microbiological agent or eukaryotic cell from a containment system. Discharges can be incidental or accidental. Incidental releases are *de minimis* in nature; accidental releases may be *de minimis* in nature."

IV. Amendment to Appendix B–I–B–1 of the "NIH Guidelines" regarding "Salmonella Typhimurium" LT2

In a letter dated September 25, 1990, Dr. Robert A. La Rossa of the E. I. DuPont Agricultural Products Research Center requested that the biocontainment level for *Salmonella typhimurium* LT2 be reduced from Biosafety Level 2 to Biosafety Level 1.

In his letter, Dr. La Rossa states:

A large body of knowledge suggests that *Salmonella typhimurium* LT2 can be handled at Biological Safety Level 1. Support of this concept can be found in *Advanced Bacterial Genetics* (Davis, Roth and Botstein; Cold Spring Harbor Press, 1980) and *Experimental Techniques in Bacterial Genetics* (Maloy, Jones and Bartlett, 1990), *Microbiological Reviews* (42:471–519 (1978)) and *Infection and Immunity* (15:491–499 (1977)). Indeed these studies indicate that *Salmonella typhimurium* LT2 is at least 10^4 less pathogenic towards mice than other Salmonellae. The informed consensus of experts in the field (see the *Microbiological Reviews reference*) is that this organism can be safely handled under conditions less stringent than BSL 1 that we are proposing.

V. Report from the Planning Subcommittee in Charge of Reviewing Comments Received During the Regional Hearings Conducted by the Recombinant DNA Advisory Committee Concerning Future Role of this Committee

The Recombinant DNA Advisory Committee conducted seven Regional Hearings in 1990. During the October 15–16, 1990, meeting, it was decided to establish a Planning Subcommittee to consider in detail the results of the regional hearings. Based on these findings, a series of recommendations will be made concerning:

1. Changes in the definition of recombinant DNA;
2. Relinquishing review of experiments involving environmental release of genetically modified organisms;
3. Review of experiments that involve cloning of genes for biosynthesis of vertebrate toxins;
4. Educational role of the Recombinant DNA Advisory Committee and its Human Gene Therapy Subcommittee with regard to human gene therapy protocols; and
5. Other changes in the *NIH Guidelines*.

The Planning Subcommittee met on December 6, 1990, and formulated the following options to the Recombinant DNA Advisory Committee for consideration at the meeting on February 4, 1991.

The options are as follows:

1. Consider restructuring the Human Gene Therapy Subcommittee as a free-standing committee.
2. Merge the Human Gene Therapy Subcommittee with the Recombinant DNA Advisory Committee.
3. Consider regional workshops on human gene therapy for the benefit of local institutional biosafety committees; consider having sessions on human gene therapy at various clinical research meetings.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally HIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to

be cost effective or in the public interest to attempt to list these programs. Since a list would likely require several additional pages. In additional, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines*. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: December 17, 1990.

Jay Moskowitz,

Associate Director for Science Policy and Legislation.

[FR Doc. 90-30244 Filed 12-27-90; 8:45 am]

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Federal Register

Thursday
December 27, 1990

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 73

Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. 25767; Special Federal Aviation Regulation (SFAR) No. 53-2]

Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Final rule; extension of expiration date.

SUMMARY: This action continues for an additional 36 months the effectiveness of warning areas established in airspace subject to FAA jurisdiction in order to reflect presidential action extending the territorial sea of the United States, for international purposes, from 3 to 12 nautical miles from the coast of the United States. The warning areas were established in the same location as nonregulatory warning areas previously designated over international waters. The Department of Defense (DOD) conducts hazardous military flight activities in these areas. The areas had been established for a period of 2 years to permit the FAA to consider the need for rulemaking action to meet military training needs in this airspace. This action continues the effectiveness of these areas while airspace analyses and rulemaking efforts are ongoing.

DATES: *Effective Date:* December 27, 1990.

Expiration Date: December 27, 1993.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Air Traffic Rules and Regulations, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

Presidential Proclamation No. 5928, signed on December 27, 1988, extended the sovereignty of the United States government, for international purposes, from 3 to 12 nautical miles from the coast of the United States (including its territories). By final rule issued on that same date, the FAA amended parts 71 and 91 of the Federal Aviation Regulations to extend controlled airspace and the applicability of general flight rules to the airspace overlying the waters between 3 and 12 nautical miles from the coast of the United States (54 FR 264; January 4, 1989).

When the airspace was considered to be over international waters, military aircraft were not prohibited from conducting hazardous training activities within this area. Warning areas were designated in this airspace to provide notice to nonparticipating pilots of the location of hazardous military training operations. However, nonparticipating pilots were not restricted from operating in these areas.

Upon the extension of part 91 operating rules to this airspace, the Department of Defense (DOD) would have been prohibited from hazardous flight activities without an exemption from the regulations or the designation of an airspace category for that purpose. Warning areas established in international airspace, under FAA internal procedures, do not in themselves authorize hazardous activities. An exemption would permit the continuation of military operations, but would not in itself adequately inform the general flying public of the existence of these activities. An interruption of military operations normally conducted in warning areas would have an adverse impact on national defense. Accordingly, the FAA established regulatory warning areas to permit the continuation of existing military training activities in the same areas where those activities were and are still being conducted (SFAR 53, 54 FR 260, January 4, 1989).

The warning areas established by SFAR 53 are unique airspace designations intended solely to allow the continuation of military training activity and to permit nonparticipating aircraft to fly through such areas. Controlled flights are not affected by SFAR 53 or this extension, as such flights will continue to be routed around the active warning areas.

Warning area designations and descriptions are not contained in the Code of Federal Regulations (CFR). For **Federal Register** citations affecting the warning areas, see the List of CFR Sections Affected in the Finding Aids section of 14 CFR part 73.

The Office of the Secretary of Defense has advised the FAA that it is continuing to assess the impact upon military training operations of the expansion of territorial airspace and the applicable flight rules and will be preparing a consolidated assessment of the overall impact on military operations. The DOD has completed a survey of individual command training and operational requirements for the airspace between 3 and 12 nautical miles off the coast of the United States. The DOD is considering these impacts to determine those areas which should be converted to another form of regulatory or nonregulatory special use airspace. Preliminary results indicate that, in a number of areas, there will be a continuing need for special use airspace to provide connectivity for hazardous operations such as DOD and NASA missile launches, and to encompass existing range resources located between 3 and 12 nautical miles offshore.

Due to the magnitude of operational difficulties associated with this issue, development of a proposed airspace configuration for the affected airspace is incomplete. Additional time beyond the current expiration date of SFAR 53-1 (December 27, 1990) is needed to complete these actions.

The FAA agrees that a further extension of the SFAR is warranted to allow completion of the airspace realignment/redesignation proposal and to conduct any additional rulemaking action which may be necessary to redesignate portions of the affected airspace.

This action is intended solely to prevent interruption of ongoing military training activity and to warn nonparticipating aircraft of possible hazardous activities while permitting the aircraft to fly through such areas while final airspace design, coordination and processing actions are completed.

Regulatory Evaluation

This SFAR does not alter the provision of air traffic control (ATC) services, nor does it have an impact on ATC system users. This special rule merely allows military training activity to continue without interruption, while permitting nonparticipating pilots to fly through such areas. Accordingly because the costs of the rule adopted are so minimal, further regulatory evaluation has not been prepared.

Federalism Implications

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

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a "major rule" under Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Act. This regulation is not considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 73

Aviation safety, Special use airspace.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 48 U.S.C. 106(g) (Revised Pub. L. No. 97–449, January 12, 1983); 14 CFR 11.69; Proc. 5928.

2. By revising paragraphs 1 and 2 of Special Federal Aviation Regulation No. 53 to read as follows:

Special Federal Aviation Regulation No. 53—Establishment of Warning Areas in the Airspace Overlying the Waters Between 3 and 12 Nautical Miles From the United States Coast

1. *Applicability.* This rule establishes warning areas in the same location as nonregulatory warning areas previously designated over international waters. This special regulation does not affect the validity of any nonregulatory warning area which is designated over international waters beyond 12 nautical miles from the coast of the United States. This special regulation expires on December 27, 1993.

2. *Definition-Warning area.* A warning area established under this special rule is airspace of defined dimensions, extending from 3 to 12 nautical miles from the coast of the United States, that contains activity which may be hazardous to nonparticipating aircraft. The purpose of such warning areas is to warn nonparticipating pilots of the potential danger. Part 91 is applicable within the airspace designated under this special rule.

* * * * *

Issued in Washington, DC, on December 20, 1990.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–30368 Filed 12–26–90; 8:45 am]

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Reader Aids

Federal Register

Vol. 55, No. 249

Thursday, December 27, 1990

INFORMATION AND ASSISTANCE

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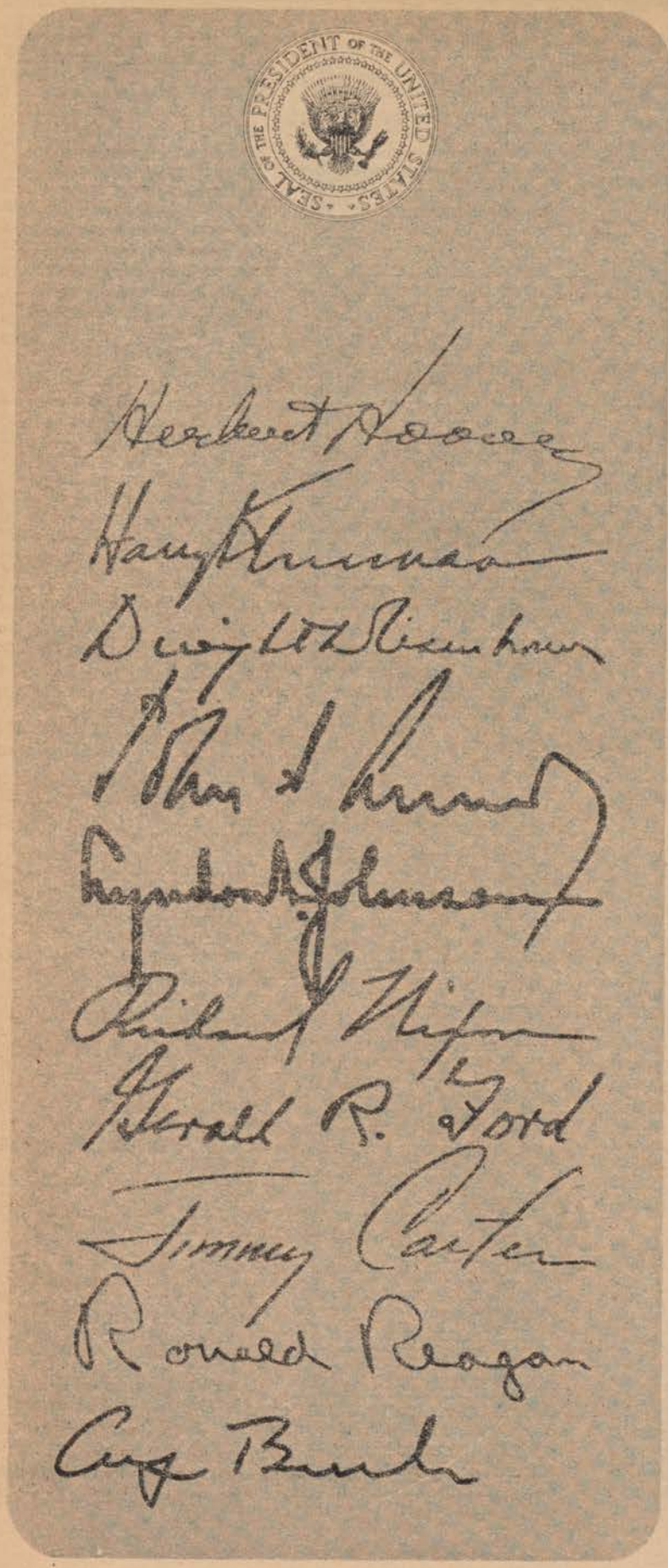

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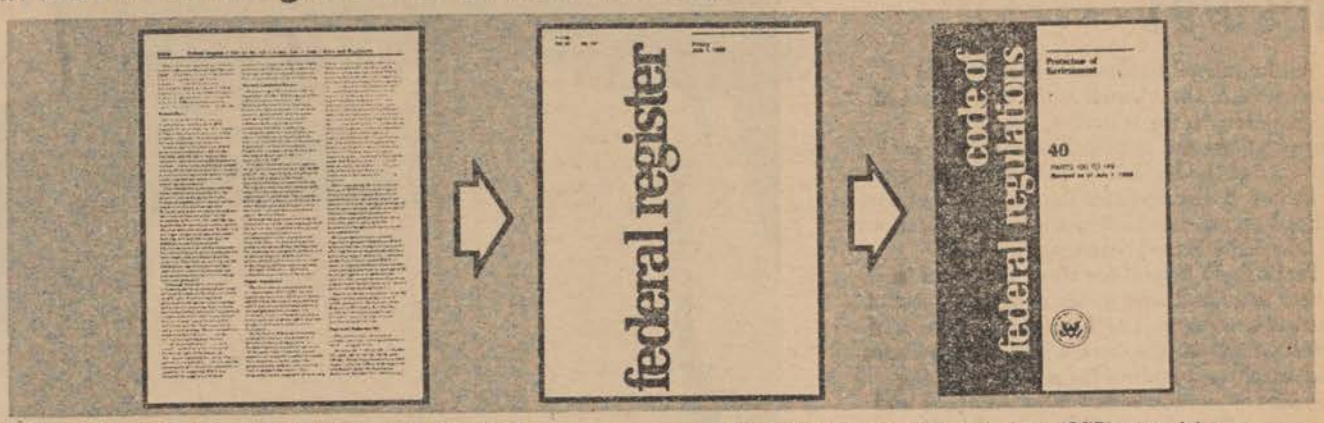

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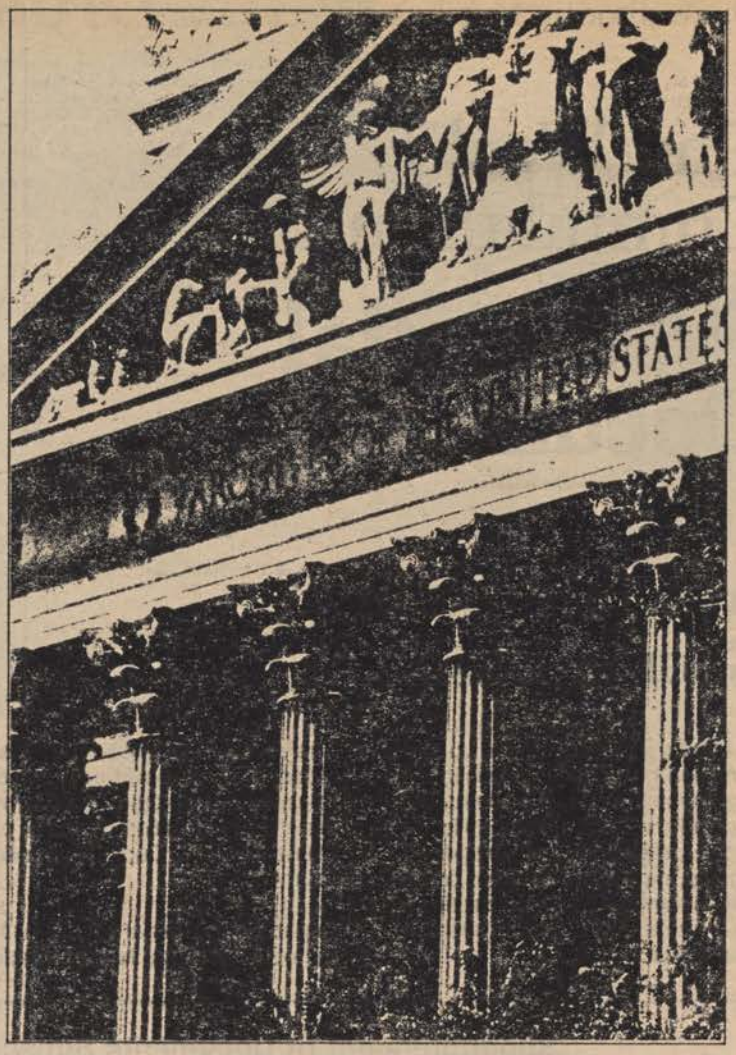

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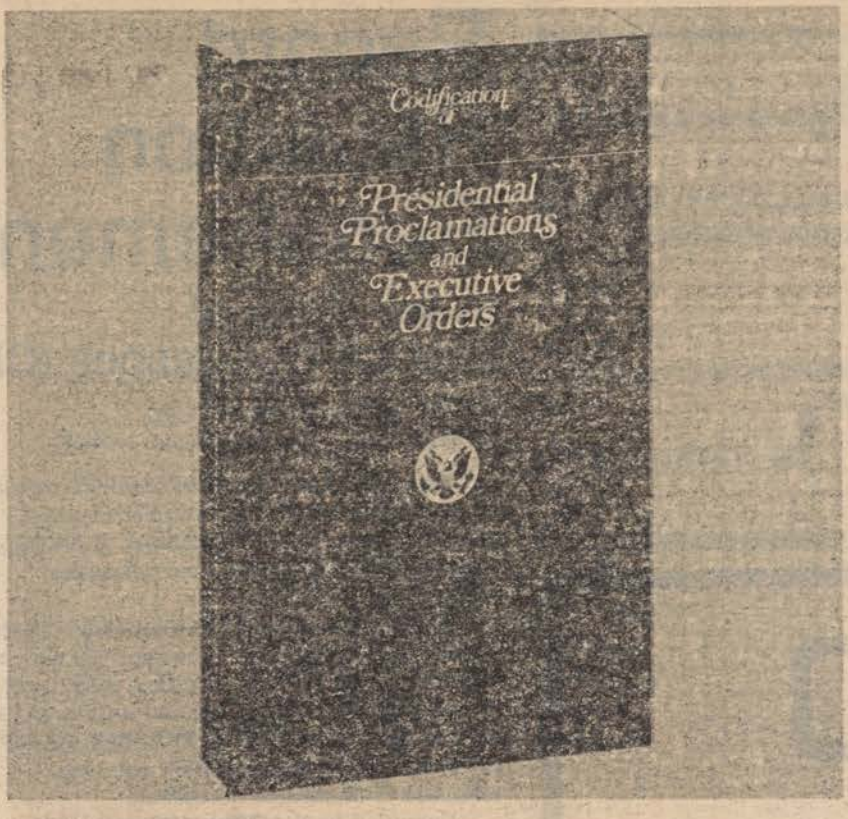

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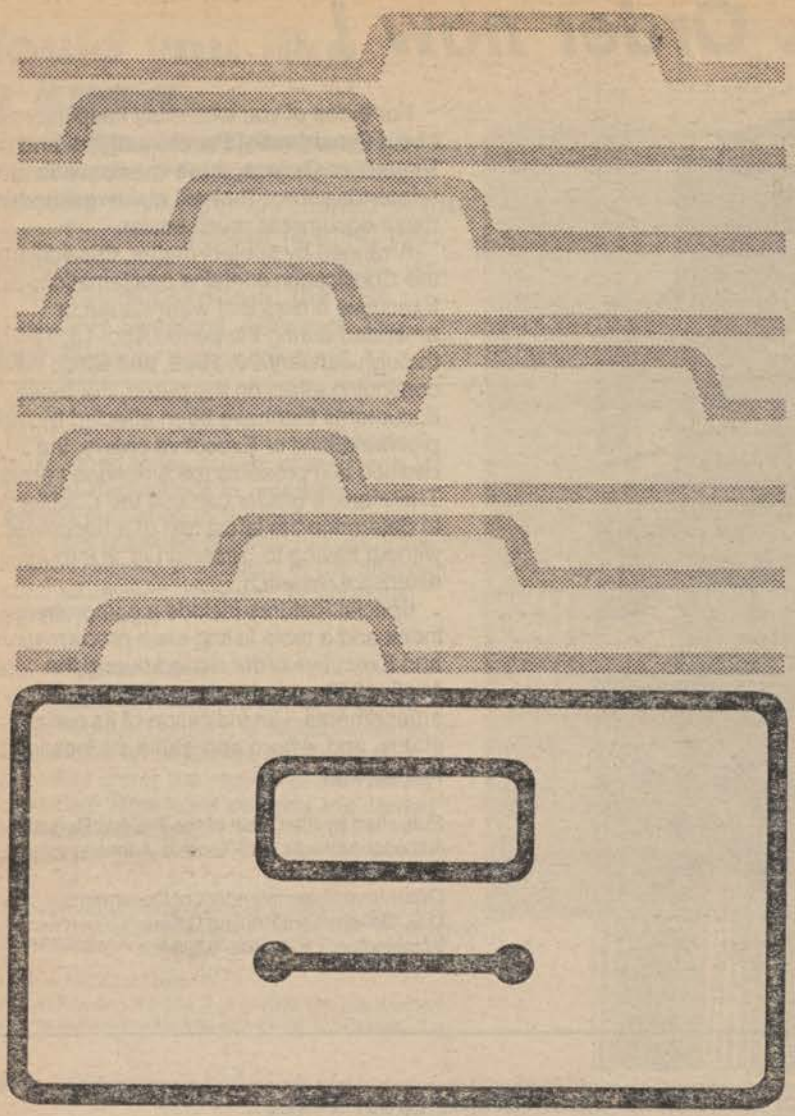

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in the Code of Federal Regulations (CFR)

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