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Thursday
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WHO: The Office of the Federal Register.

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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: 202–523–5240.

NEW YORK, NY

WHEN: October 24; at 1:00 p.m.
WHERE: Room 305A, 26 Federal Plaza, New York, NY.
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center. 212–264–4810.

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Presidential Documents

Title 3—

The President

Proclamation 6034 of October 2, 1989

Minority Enterprise Development Week, 1989

By the President of the United States of America

A Proclamation

The United States was built by men and women who were willing to face both the unknown dangers of life on the frontier and its certain demand for constant hard work. These courageous pioneers were willing to take great risks because they believed that even greater opportunities awaited them in the new land.

Today, that same pioneer spirit can be found among the thousands of Americans who accept the risks of starting a new business, making it succeed, and keeping it competitive. This week, we recognize the industrious and determined spirit of minority business men and women in particular.

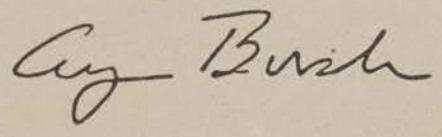
Our Nation's economic growth and ability to compete in the international marketplace depend on the full participation of all members of our society. Minority business men and women have helped to expand our economy through innovation, hard work, and by taking advantage of the opportunities available in our free enterprise system. These entrepreneurs have become an indispensable force in our economy, and they will continue to play a key role in our efforts to expand America's share of world markets.

Increasing our Nation's competitiveness in the rapidly changing global marketplace will require us to continue harnessing the entrepreneurial spirit of all our people. Therefore, we must renew our commitment to eliminating the barriers that hinder the participation of minority men and women in our economy; we must continue to promote quality education and effective job training; and we must foster an appreciation for individual initiative and private enterprise among young people.

The United States already benefits from the talent, energy, and labors of more than 800,000 minority businesses. This week, we honor them for their many achievements and reaffirm our commitment to helping young men and women follow their fine example.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of October 1 through October 7, 1989, Minority Enterprise Development Week, 1989. I call upon the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



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Proclamation 6035 of October 3, 1989

National Health Care Food Service Week, 1989

By the President of the United States of America

A Proclamation

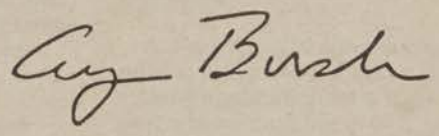
Sound nutrition is important to all Americans, but for the ill it is an essential component in the process of healing and recovery. The dedicated men and women who work in the health care food and nutrition departments of our Nation's hospitals and nursing facilities thus play a very important role in patient care.

Working in concert with other health care professionals, these individuals provide a variety of patient care services, from nutrition instruction to the preparation and delivery of appetizing and nutritious meals. This week, we salute America's health care food services personnel—administrators, dieticians, dietary assistants, menu planners, chefs, production workers, and volunteers—for their professionalism and hard work.

In recognition of the vital contribution made by health care food service professionals to the well-being of the American people, the Congress, by Senate Joint Resolution 81, has designated the week of October 1 through October 7, 1989, as "National Health Care Food Service Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 1, 1989, as National Health Care Food Service Week, and I call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.



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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corp.

7 CFR Part 1435

Price Support Loan Program for 1986 Through 1990 Crops of Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This final rule adopts without change, the interim rule published in the **Federal Register** on October 29, 1986 (51 FR 39507). The interim rule amended the regulations at 7 CFR part 1435 to implement section 201 of the Agricultural Act of 1949 ("1949 Act") as amended by the Food Security Act of 1985 for the 1986–1990 crops of sugar. The amended provisions principally relate to the price support loan program. Under this program, the Commodity Credit Corporation (CCC) will support prices to domestic producers of the 1986 through 1990 crops of sugarcane and sugar beets through nonrecourse loans made by CCC to sugar processors.

EFFECTIVE DATE: October 5, 1989.

FOR FURTHER INFORMATION CONTACT: Lynda Moore, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447–4229. The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available from Thomas W. Fink, Cotton, Grain and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447-8701.

SUPPLEMENTARY INFORMATION:

Rulemaking Matters

This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "major" since this action may have an annual effect on the economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action in not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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

The title and number of the Federal Assistance Program to which this final rule applies is: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

The reporting and record keeping requirements of this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Interim Rule

An interim rule was published in the **Federal Register** at 51 FR 39507 on October 29, 1986, which amended the Price Support Loan Program for 1986–1990 Crops of Sugar Beets and Sugarcane. The interim rule amended the regulations at 7 CFR part 1435 to set forth the provisions applicable to the price support loan program for the 1986 through 1990 crops of sugarcane and sugar beets. This program is mandated by the Agricultural Act of 1949, as amended by the Food Security Act of 1985. Under the program, the CCC will support prices to domestic producers of the 1986 through 1990 crops of sugarcane and sugar beets through nonrecourse loans from CCC to sugar processors.

The amended provisions incorporated the financial assurance requirements that provide CCC with some protection in the event the processor does not pay producers the maximum benefits under the sugar price support program due to bankruptcy or insolvency of the processor. Comments of the interim rule were invited.

General Summary of Comments

The public was given until December 29, 1986, to comment on the interim rule. The Department has considered all comments received in developing this final rule. The Department received comments with respect to the interim rule from seven respondents, including sugar producer's associations, and producer/processor cooperative, sugar beet refiners, and an individual.

All comments received are on file and available for public inspection in Room 3627—South Building, 14th and Independence Avenue, SW., Washington, DC 20013.

The following is a summary of comments received and actions taken:

Comments on Major Program Provisions

I. Bonding for Protection of Sugar Producers

A. *Provisions of Interim Rule.* The interim rule provided that a processor making application for a sugar loan must post a bond payable to CCC, or provide other financial assurance as agreed upon by CCC, to protect CCC in the event the processor does not pay producers the maximum benefits under the sugar price support program. CCC must obtain such assurance of payment by the processor of maximum program benefits as a result of the statutory requirements contained in section 401(e)(2) of the 1949 Act. This section provides that CCC will pay to sugar producers, under certain circumstances, the maximum benefits from the sugar price support program, less benefits previously received by the producers.

The bond or other assurance must be in an amount equal to the applicable crop year regional minimum price support level for sugar beets or sugarcane times ten percent of the total annual quantity of sugar beets or sugarcane delivered by producers to the processor in the previous year or, in the event such quantity cannot be determined, the quantity estimated by CCC that will be delivered to the processor for that crop.

B. *Comments.* Four comments were received regarding the bond or other financial assurance requirements. Three of the respondents are sugar processors. One of the respondents is a sugar beet association.

Two respondents expressed their satisfaction with the actions taken by the Department of Agriculture in seeking ways that processors could meet the financial assurance requirements. One respondent, a cooperative sugar processor, requested to be exempt from the bonding requirement based on its agreement with growers. One respondent made the following suggestions: (1) that financial assurances should be considered satisfied, without posting additional security, if loan proceeds are segregated and used solely to pay producers and; (2) any security requirement should be reduced proportionately as payments are made to growers.

C. *Discussion and conclusion.* The cooperative sugar processor seeking exemption from the financial assurance requirements based on its agreement with growers stated that it makes payment to its members/shareholders/growers on a break-even concept. The respondent also stated that according to the agreement, the grower waives and abandons any rights or claims for damages in case of bankruptcy or destruction.

After careful review of the growers contract, it was determined that CCC would remain obligated to make payments to growers in the event of insolvency of the cooperative sugar processor. Consequently, an exemption of financial assurance requirements is not justified.

The respondent suggesting that financial assurances should be considered satisfied if loan proceeds are segregated and used solely to pay producers, submitted the following statements: The respondent understands the purpose of providing financial assurance is to assure CCC that growers receive the benefits of the price support program.

The respondent further stated that if producers are the sole recipients of the loan proceeds, no further security is needed. The same respondent suggested that any security requirement should be reduced proportionately as payments are made to growers.

Section 401(e) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985, requires CCC to pay sugar producers, under certain circumstances such as bankruptcy or insolvency, the maximum benefits from the sugar price support program, less benefits previously received by the producers. Therefore, CCC's exposure begins when a processor receives the first loan disbursement.

The respondent's comment that further security is unnecessary if loan proceeds are segregated and used solely to pay producers is incorrect. CCC's exposure is not limited to the amount of loan proceeds disbursed to a processor. Once a sugar loan is disbursed to a processor, CCC's exposure is to pay the maximum benefits to every eligible producer for every ton of sugar beets or sugarcane delivered to the processor.

Similarly, CCC's total exposure CCC's exposure is to pay the total less amounts paid by the processor. Reducing the financial assurance amount as repayments are made by the processor to producers would reduce the limited protection that the financial assurance requirements provide CCC.

After careful consideration of the comments submitted, it has been concluded that the bonding provisions of the interim rule should be adopted in the final rule without change.

II. Maturity of Loans

A. *Provisions of Interim Rule.* The interim rule provided that loans will mature on the last day of the sixth month following the month in which the loan is disbursed, but in no event later than September 30 following disbursement of the loan.

B. *Comments.* Two comments were received with respect to the maturity of loans. Both respondents recommended changing the loan maturity date to the end of the ninth month following disbursement. The respondents stated that six month loans made during the fall season mature well in advance of traditional sales, requiring processors to obtain supplemental financing. Both respondents identified sugar as the only commodity for which the term of CCC loans is six months.

C. *Discussion and conclusion.* As set forth in the interim rule, a loan maturity date on the last day of the sixth month in which the loan is disbursed, but no later than September 30 following disbursement, appears to be in the best interest of CCC and the trade. The final date of September 30 is mandated by statute. If a nine-month loan period were offered, all loans would mature between July 31 and September 30. Experience with other commodities suggests that having all loans mature within a short time frame usually has a depressant effect upon the market price of the commodity. Accordingly, the basic provisions of the interim rule have been retained.

In order to accommodate unusual situations, the final rule provides that the processor and CCC may agree upon an earlier or later maturity date (but in no event later than September 30 following disbursement of the loan) if such maturity date will not impair the effectiveness of the price support program, as determined by CCC.

III. Refined Beet Sugar Loan Rate

A. *Provisions of the Interim Rule.* The Food Security Act of 1985 requires the Secretary to support the price of domestically grown sugarcane at such a level as the Secretary determines appropriate, but not less than 18 cents per pound, and to support the price of domestically grown sugar beets at a level which is fair and reasonable in relation to the loan level for sugarcane.

B. *Comment.* One respondent, a sugarcane producer's association, objected to the methodology used in determining the loan rate for refined beet sugar. The commenter stated that the refined beet sugar loan rate is the key factor in determining the market price for refined sugar. The commenter suggested that the loan rate for refined beet sugar was too low in relation to the Market Stabilization Price.

C. *Discussion and conclusion.* The 1987, 1988, and 1989 loan rates for refined beet sugar reflect the value of the sugar based on the relationship between the weighted average of grower returns for sugar beets and the weighted average of grower returns for sugarcane, expressed on a cents per pound basis for refined beet sugar and raw cane sugar, for the immediately preceding 10-year period. After adjustment to reflect the proper price relationship, the estimated 1987 and 1988 sugar beet crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of the sugar) are added to make up the basic loan rate for

refined beet sugar. This is the same method that was used for the 1986 crop.

The respondent's comment objected to the resulting beet sugar loan rate, but the comment did not identify the methodology as not meeting the statutory requirement that such loan rate be fair and reasonable in relation to the cane sugar loan rate. Consequently, after careful consideration of the comment received, it has been determined that the net return methodology used should be retained to determine the beet sugar loan rate.

IV. Location Differentials

A. *Provisions of Interim Rule.* The interim rule established separate location loan rate differentials for each sugarcane and sugar beet production area. Location loan rate differentials were established based on the estimated average freight costs between the processor and such processor's normal market. Under this method, the loan rate for each area or region was established by adding to or subtracting from the U.S. average loan rate for raw cane sugar and refined beet sugar the difference between a particular area's freight cost and the weighted average freight costs for all areas. The most current transportation data available to the Department was used in formulating the location differentials.

B. *Comments.* One respondent commented that there is no authority in the applicable legislation for location differentials in the sugar loan rates.

C. *Discussion and conclusion.* In accordance with Section 403 of the 1949 Act, CCC may make adjustments in loan rates based on the location of the stored commodity. Such location differentials are common to most of the price support programs conducted by CCC. Location differentials are generally based upon transportation costs and are essential in order to prevent distortions of ordinary market relationships as the result of the price support program.

After careful consideration of the comment received, it has been concluded that the provisions of the interim rule should be retained.

V. Extension of Comment Period

A. *Comment.* One commenter requested that the comment period be extended for at least six months.

B. *Discussion and conclusion.* The interim rule stated that comments must be received on or before December 29, 1986 in order to be assured of consideration. No additional comments were received since December 29, 1986, and most aspects of the new program provisions have been implemented smoothly. Consequently, it has been concluded that an extension of the comment period was not needed.

VI. Elimination of Support Program

A. *Comment.* One commenter recommended that the Department do away with all sugar controls and quotas as they exist now.

B. *Discussion and conclusion.* Since the sugar loan program is mandated by statute further discussion of this comment is not required.

List of Subjects in 7 CFR Part 1435.

Sugar, Price support program, Loan programs.

Final Rule

Accordingly, the interim rule published at 51 FR 39507, which amended 7 CFR Part 1435, is hereby adopted as a final rule without change.

Signed at Washington, DC, on September 28, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 89-23450 Filed 10-4-89; 8:45 am]

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Food Safety and Inspection Service

9 CFR Parts 327 and 381

[Docket No. 88-001F]

RIN 0583-AA91

Definition of Terms—"Import (Imported)" and "Offer(ed) for Entry" and "Entry (Entered)"

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal meat inspection regulations and the poultry products inspection regulations by defining the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)" to clarify what these terms are intended to mean and to clarify at what point meat and poultry products offered for entry into the United States are no longer considered to be imported products and are deemed and treated as domestic articles under the law. Once product offered for entry has been reinspected by FSIS inspectors and the official mark of inspection has been applied, FSIS considers that such product has been "entered" into the United States and, therefore, is the regulatory equivalent of domestic product. At that point, such product is subject to the laws and regulations of the United States as applied to domestic product, particularly with respect to the disposal of product found to be adulterated.

The definitions of "offer(ed) for entry" and "entry (entered)" are different for products imported from Canada under the interim rule recently published in the **Federal Register** (54 FR 273). The interim rule exempted such products from the requirement that they be marked with the official mark of inspection and provided for a "streamlined" inspection procedure.

This action is a result of litigation which indicated the need for clarification of terms with respect to USDA's interpretation of provisions of the Federal Meat Inspection Act and the regulations promulgated thereunder concerning at what point FSIS considers imported products to be domestic products.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3473.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

FSIS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The rule clarifies, through the addition of definitions, when meat and poultry products are considered to be "imported' and when such products offered for entry are considered to be entered and, therefore, are treated as domestic products. Such domestic products are subject to the laws and regulations of the United States applicable to such products, particularly with respect to the disposal of products found to be adulterated. Clarification of these terms will not result in any change in current procedures. Domestic producers or

domestic importers will not be affected by this rule.

Background

Section 20 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 620) and section 17 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibit the importation of meat or poultry products into the United States if such products are adulterated or misbranded and unless they comply with all the inspection, building construction standards, and all other provisions of the Acts and regulations as are applied to domestic products. Section 20 of the FMIA and section 17 of the PPIA also provide that once imported products are entered into the United States, such products are considered to be and should be treated as domestic products subject to the provisions of the FMIA and PPIA and other food related statutes. FSIS is defining the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)" to clarify at what point product offered for entry into the United States is considered to be domestic product. The term "import (imported)" is considered to be that point when the product is brought within the territorial limits of the United States whether that arrival is accomplished by land, air, or water. For product other than from Canada, the term "offered for entry" is considered to be that point at which the importer offers the product for reinspection to FSIS, that is, the point at which imported product from eligible countries has been presented to FSIS for reinspection. The term "entry (entered)" is considered to be the point at which product from eligible countries, other than Canada, imported into the United States and subsequently offered for entry receives reinspection and is marked with the official mark of inspection.

FSIS is providing separate definitions for "offer(ed) for entry" and "entry (entered)" for Canadian product as a result of the interim rule which was published on January 5, 1989, (54 FR 273) that exempted imported Canadian meat and poultry products from the requirement that such product be marked with the official mark of inspection. As part of the interim rule, FSIS also instituted new "streamlined" inspection procedures for Canadian product exported to the United States. Under these procedures, inspectors at participating Canadian establishments are authorized to request reinspection assignments and, if deemed necessary, to draw samples for reinspection by Program import inspectors. Therefore, FSIS is providing a separate definition for "offer(ed) for entry" as it applies to participating Canadian establishments. The term is defined as that point at which an official of the Canadian meat inspection system contacts the Import Field Office for an inspection assignment. Products from nonparticipating establishments will receive an inspection assignment upon arrival at an import inspection establishment. For Canadian product produced in nonparticipating establishments, "offer(ed) for entry" is defined as that point at which the importer presents the product to the Program for reinspection.

FSIS has also instituted a new sampling program for all Canadian product, based on statistically based random sampling plans developed by FSIS, whereby some product is subject to reinspection by FSIS and some product is not. (For additional information on procedures used for the reinspection of Canadian product, refer to the interim rule published on January 5, 1989 (54 FR 273).) Therefore, because of the new "streamlined" inspection procedures, the new sampling plans, and the exemption of Canadian product from application of the official mark, FSIS is providing separate definitions for "entry (entered)" of Canadian product. For Canadian product not subject to reinspection, FSIS is defining "enter (entered)" as when the containers or the products themselves if not in containers are marked with the Canadian export stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customshouse in accordance with 19 CFR part 123.

For Canadian product subject to reinspection, FSIS is defining "enter (entered)" as when the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as "Inspected and Passed" by the import inspector.

The FMIA and PPIA and the regulations promulgated thereunder require that product found to be adulterated on the day it is reinspected be refused entry, and such product may be reexported (9 CFR 327.13(a)(2) and 381.202(a)(2)). In cases where meat product is only misbranded (e.g., labeling or certificates are missing, incorrect, or incomplete), such product may be brought into compliance by the importer, under FSIS's supervision (9 CFR 327.13(a)(4)).

Before a foreign country can export product to the United States it must be granted eligibility to do so. FSIS has established procedures by which foreign countries desiring to export meat and/or poultry products to the United States may become eligible to do so. These regulations are contained in part 327 of the Federal meat inspection regulations and part 381, subpart T, of the poultry products inspection regulations (9 CFR part 327 and part 381, subpart T). These regulations provide that a meat and/or poultry product inspection system maintained by a foreign country, with respect to establishments preparing products in that country for export to the United States, must ensure compliance of such establishments and their meat and/or poultry products with requirements at least equal to all the provisions of the FMIA and the PPIA and the regulations that are applied to official establishments in the United States and their meat and poultry products. In addition, for approval to export meat and/or poultry products to the United States, the requirement that reliance can be placed on certificates required under the regulations from authorities in the country must also be met.

Before eligibility is granted, a complete evaluation of the country's inspection system is made by FSIS personnel. This evaluation consists of two processes—a document review and on-site reviews of system operations. The document review process involves a review of the laws, regulations, directives and other written materials used by the country to operate its inspection program. FSIS assists the country in organizing this material by providing questionnaires in five risk areas: contamination, disease, processing, residues, and compliance/economic fraud. FSIS then evaluates the information to assure that the critical points in each of the risk areas are being addressed satisfactorily with respect to standards, activities, resources and enforcement. This process usually involves several exchanges of information. In many cases, the country seeking recognition must revise its regulations or publish special directives to achieve equivalency with United States requirements.

If the document review proves to be satisfactory, on-site reviews are scheduled using a multi-disciplinary team to evaluate all aspects of the country's program including laboratories and individual establishments within the country. On-site reviews are designed to further explore areas determined to require more detailed evaluation and are also undertaken to allow the FSIS review team to observe the system in its daily operation.

After a review of all the documents submitted by the foreign country and an evaluation of the findings of the on-site reviews, the Administrator makes a determination concerning the ability of the foreign country to assure, with respect to certified establishments within the foreign country preparing product for export to the United States, compliance with requirements at least equal to those applicable to official establishments within the United States which prepare meat and/or poultry products, and that reliance can be placed upon certificates required under the FMIA and the PPIA from authorities of the foreign country.

This judgment by the Administrator—that the foreign country's inspection system is considered to be "at least equal to" the inspection system of the United States—is the primary means used by FSIS to assure that product intended for export to the United States will be "at least equal to" all the requirements applied to domestic product. Once eligibility is granted, FSIS conducts ongoing reviews of the system in operation to assure that procedures and standards continue to meet United States requirements.

FSIS relies on its initial determination of a foreign country's eligibility coupled with ongoing reviews to provide assurance that products offered for entry from such eligible country are, and continue to be, wholesome, unadulterated and properly labeled and packaged. As a further check on the effectiveness of the foreign inspection system, all product offerd for entry into the United States, except that from Canada as discussed above, is subject to basic reinspection by FSIS import inspectors. This reinspection consists of a review of the product containers to check for damage or other problems received in transit to the United States, and a review of product labeling, health certificates and FSIS inspection forms to assure that the documentation is correct and complete.

Such imported products offered for entry also receive a form of secondary level reinspection depending on the type of product. Secondary reinspection consists of examinations for production defects such as the presence of hair, grease, hide, dirt and similar substances in frozen or fresh bulk product; net weight checks, condition of container examinations, and incubation tests for canned products; laboratory analyses for food chemistry (fat, water, and nitrite levels) for processed products; and, analyses for chemical residues in fresh, frozen and canned product. Some of these test results are available immediately; others, such as incubation results or chemical residue analyses, are not available for several days. In cases where the product has passed basic resinspection, even though secondary inspection results are not available, the product is stamped with the official mark of inspection and is entered into the United States and is considered to be domestic product. At this point, FSIS assumes that the secondary test results will confirm that the product meets United States requirements.

When secondary test results are received by FSIS and the results indicate violations of United States requirements, especially in chemical residue analyses which would render the product adulterated under United States laws, FSIS institutes actions to locate the product and, if appropriate, to destroy it in accordance with requirements for product produced in the United States. Domestic product which is found to be adulterated, as defined in the Acts and under § 301.2(c) of the meat inspection regulations (9 CFR 301.2(c)) and § 381.1(b)(4) of the poultry products inspection regulations (9 CFR 381.1(b)(4)), must be destroyed for human food purposes in accordance with the provisions of part 314 of the Federal meat inspection regulations (9 CFR part 314) and part 381, subpart L, of the poultry products inspection regulations (9 CFR part 381, subpart L).

Proposed Rule

On June 6, 1989, FSIS published a proposed rule (54 FR 24181) as a result of litigation concerning the seizure and condemnation of product offered for entry that had been reinspected, marked and allowed entry into the United States. The importers had asserted that the product should be permitted to be exported because the statutes and regulations are not clear as to when imported products offered for entry are to be deemed and treated as domestic product. To preclude any future questions on that point, FSIS concluded that clarifying changes needed to be made in the meat and poulty products inspection regulations. Clarification of terms would assure that all interested parties understand what is meant by use of the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)" with respect to FSIS's jurisdiction over imported meat and poultry products. FSIS did not receive any comments in response to the proposal.

Final Rule

Therefore, FSIS is amending section 327.1 of the Federal meat inspection regulations (9 CFR 327.1) and section 381.195 of the poultry products inspection regulations (9 CFR 381.195) to add definitions for the terms "import (imported)" and "offer(ed) for entry" and "entry (entered)." FSIS defines "import (imported)" as "to bring within the territorial limits of the United States whether that arrival is accomplished by land, water, or air." For imported products other than from Canada, FSIS defines "offer(ed) for entry" as "that point at which the importer presents the imported product to the Program for reinspection;" and defines "entry (entered)" as "that point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection."

For Canadian product produced in Canadian establishments participating in the "streamlined" inspection procedures, FSIS defines "offer(ed) for entery" as "that point at which an official of the Canadian meat inspection system contacts the Import Field Office for an inspection assignment.

For Canadian product produced in nonparticipating establishments, FSIS defines "offer(ed) for entry" as "the point at which the importer presents the imported product to the Program for reinspection."

For Canadian product not subject to reinspection, FSIS defines "enter (entered)" as "when the containers or the products themselves if not in containers are marked with the Canadian export stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customshouse in accordance with 19 CFR part 123."

For Canadian product subject to reinspection, FSIS defines "enter (entered)" as "when the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as Inspected and Passed by the import inspector."

FSIS is also amending several sections of Parts 327 and 381 with respect to the terms "import (imported)," "offer(ed) for entry," and "entry (entered)" as defined in this rule. These amendments make consistent the use of the above terms as they are used in the affected sections. These amendments are editorial only and make no changes to the content of those sections.

For the reasons stated in the preamble, FSIS is amending Part 327 of the Federal meat inspection regulations and Part 381, Subpart T, of the poultry products inspection regulations as set forth below:

List of Subjects in 9 CFR

Part 327

Imported products, Meat inspection.

Part 381

Imported products, Poultry products inspection.

PART 327—IMPORTED PRODUCTS

1. The authority citation for Part 327 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*

2. Section 327.1 is amended by revising the section heading, by designating the existing text as paragraph (b), and by adding a new paragraph (a) to read as follows:

§ 327.1 Definitions; application of provisions.

(a) When used in this part, the following terms shall be construed to mean:

(1) *Import (imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) For product from eligible countries other than Canada:

(i) *Offer(ed) for entry.* The point at which the importer presents the imported product to the Program for reinspection.

(ii) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the offical mark of inspection in accordance with § 327.26 of this subchapter.

(3) For product from Canada:

(i) *Offer(ed) for entry* from establishments participating in the "streamlined" inspection procedures. The point at which an official of the Canadian meat inspection system contacts the Import Field Office for an inspection assignment.

(ii) *Offer(ed) for entry* from nonparticipating establishments. The point at which the importer presents the imported product to the Program for reinspection.

(iii) *Entry (entered)* for product not subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian port stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customhouse in accordance with 19 CFR Part 123.

(iv) *Entry (entered)* for product subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as "Inspected and Passed" by the import inspector.

3. Paragraph (b) of § 327.2 is revised to read as follows:

§ 327.2 Eligibility of foreign countries for importation of products into the United States.

* * * * *

(b) It has been determined that product of cattle, sheep, swine, and goats from the following countries covered by foreign meat inspection certificates of the country of origin as required by § 327.4, except fresh, chilled, or frozen or other product ineligible for importation into the United States from countries in which the contagious and communicable disease of rinderpest or of foot-and-mouth disease or of African swine fever exists as provided in Part 94 of this title, is eligible under the regulations in this subchapter for entry into the United States after inspection and marking as required by the applicable provisions of this part.

* * * * *

4. The introductory text of paragraph (b) and paragraph (d) of § 327.3 are revised to read as follows:

§ 327.3 No product to be imported without compliance with applicable regulations.

* * * * *

(b) No fresh or cured meat or meat trimmings in pieces too small to permit adequate inspection shall be imported into the United States. Individual pieces or trimmings must not be smaller than 2-inch cubes or pieces comparable in size. Except as provided in paragraph (c) of this section, processed meat food products prepared with meat pieces smaller than 2-inch cubes or pieces comparable in size shall not be imported except under the following conditions:

* * *

* * * * *

(d) Further, no carcasses or parts of carcasses of livestock offered for entry from which naturally associated tissues such as the peritoneum, pleura, body lymph glands, or the portal glands of the liver have been removed, shall be imported into the United States.

5. The heading of § 327.5 and the first sentence of paragraph (a) are revised to read as follows:

§ 327.5 Importer to make application for inspection of products for entry; information required; "streamlined" inspection procedures for Canadian product.

(a) Except for importers of Canadian products, each importer shall apply for inspection of any product offered for entry by contacting the Import Field Office covering the location where import inspection will take place. * * *

* * * * *

6. Paragraph (a)(1) of § 327.6 is revised to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(a)(1) Except as provided in §§ 327.5(d)(1), 327.16 and 327.17, all products offered for entry from any foreign country shall be reinspected by a Program inspector before they shall be allowed entry into the United States.

* * * * *

7. Paragraph (b) of § 327.10 is revised to read as follows:

§ 327.10 Samples; inspection of consignments; refusal of entry; marking.

* * * * *

(b) Except for product offered for entry from Canada, the outside containers of all products offered for entry from any foreign country and accompanied with a foreign inspection certificate as required by this part, which, upon reinspection by import inspectors are found not to be adulterated or misbranded and are otherwise eligible for entry into the United States under this part, or the products themselves if not in containers, shall be marked with the official inspection legend prescribed in § 327.26 of this part. Except for Canadian product, all other products so marked, in compliance with this part, shall be entered into the United States, insofar as such entry is regulated under the Act.

* * * * *

8. Paragraph (c) of § 327.15 is revised to read as follows:

§ 327.15 Outside containers of foreign products; marking and labeling; application of official inspection legend.

* * * * *

(c) Except for product offered for entry from Canada, all outside containers of products which have been inspected and passed in accordance with this part shall be marked by a Program import inspector or under a Program import inspector's supervision with the official import meat inspection mark prescribed in § 327.26.

9. Section 327.16 is revised to read as follows:

§ 327.16 Small importations for importer's own consumption; requirements.

Any product in a quantity of 50 pounds or less which was purchased by the importer outside the United States

for his/her own consumption, is eligible to be imported into the United States from any country without compliance with the provisions in other sections of this part but subject to applicable requirements under other laws, including the regulations in Part 94 of this title. However, Program employees may inspect any product imported under this section to determine whether it is within the class eligible to be imported under this paragraph.

10. Paragraphs (a) and (b) of § 327.18 and its heading are revised to read as follows:

§ 327.18 Products offered for entry and entered to be handled and transported as domestic; exception.

(a) All products, after entry into the United States, shall be deemed and treated as domestic products and shall be subject to the applicable provisions of the Act and the regulations in this subchapter and the applicable requirements under the Federal Food, Drug and Cosmetic Act, except that products imported under § 327.16 are required to comply only with the requirements of that Act and § 327.16 of this subchapter.

(b) Products entered in accordance with this part may, subject to the provisions of part 318 of this subchapter, be taken into official establishments and be mixed with or added to any product in such establishments which has been inspected and passed therein.

* * * * *

11. Section 327.20 is revised to read as follows:

§ 327.20 Importation of foreign inedible fats.

No inedible grease, inedible tallow, or other inedible rendered fat shall be imported into the United States unless it has been first denatured as prescribed in § 327.25 of this part and the containers marked as prescribed by § 316.15 of this subchapter or unless it is identified and handled as prescribed by § 325.11 (b) or (c) of this subchapter.

12. Section 327.22 is revised to read as follows:

§ 327.22 Official seals for transportation of products.

The official mark for use in sealing cars, trucks, other means of conveyance, or containers in which any product offered for entry is conveyed shall be the inscription and a serial number hereinafter shown below,[1] and the import meat seal approved by the Administrator for applying such mark shall be an official device for purposes of the Act. Such device shall be attached to the means of conveyance only by a Program employee, or a Customs officer or his/her designee, and he/she shall also affix thereto a "Warning Tag" (Form MP–408–3).

13. The heading of § 327.23 and the introductory text of paragraph (b) are revised to read as follows:

§ 327.23 Compliance procedure for cured pork products offered for entry.

* * * * *

(b) *Normal monitoring procedures.* Except for product imported from Canada, the Department shall collect sample(s) of cured pork product on a random basis from lots offered for entry at the Port of Entry and, after analyzing the sample for fat and indigenous protein content, calculate the PFF percentage. The product shall not be held pending laboratory results during the monitoring phase. The PFF percentage for each sample shall be considered along with the cumulative results of prior samples to assess the effectiveness of a country's overall compliance program and to determine the course of action for subsequent lots of product. * * *

14. Paragraph (b) of § 327.26 is revised to read as follows:

§ 327.26 Official import inspection marks and devices.

* * * * *

(b) Except for product offered for entry from Canada, when import inspections are performed in official establishments the official inspection legend to be applied to meat and meat food products offered for entry shall be the appropriate form as specified in §§ 312.2 and 312.3 of this subchapter.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

15. The authority citation for part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.;* 76 Stat. 663 (7 U.S.C. 450 *et seq.*)

16. Section 381.195 is amended by revising the heading, by designating the current text of paragraphs (a) and (b) as paragraphs (b) and (c) respectively, and by adding a new paragraph (a) to read as follows:

§ 381.195 Definitions; requirements for importation into the United States.

(a) When used in this part, the following terms shall be construed to mean:

(1) *Import (Imported).* To bring within the territorial limits of the United States whether that arrival is accomplished by land, air, or water.

(2) For product from eligible countries other than Canada:

(i) *Offer(ed) for entry.* The point at which the importer presents the imported product to the Program for reinspection.

(ii) *Entry (entered).* The point at which imported product offered for entry receives reinspection and is marked with the official mark of inspection in accordance with § 327.26 of this part.

(3) For product from Canada:

(i) *Offer(ed) for entry* from establishments participating in the "streamlined" inspection procedures. The point at which an official of the Canadian inspection system contacts the Import Field Office for an inspection assignment.

(ii) *Offer(ed) for entry* from nonparticipating establishments. The point at which the importer presents the imported product to the Program for reinspection.

(iii) *Entry (entered)* for product not subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian export stamp and upon the filing of Customs Form 7533 at the port of entry or at the nearest customshouse in accordance with 19 CFR part 123.

(iv) *Entry (entered)* for product subject to reinspection. When the containers or the products themselves if not in containers are marked with the Canadian export stamp and the foreign inspection certificate accompanying the product is stamped as "Inspected and Passed" by the import inspector.

17. The introductory text of paragraph (b) of § 381.196 is revised to read as follows:

§ 381.196 Eligibility of foreign countries for importation of poultry products into the United States.

* * * * *

(b) It has been determined that poultry products from the following countries, covered by foreign poultry inspection certificates of the country of origin as required by § 381.197, are eligible under the regulations in this subpart for entry into the United States, after inspection and marking as required by the applicable provisions of this subpart: * * *

[1] The term "F–351587" is given as an example only. The serial number of the specific seal will be shown in lieu thereof.

18. The heading of § 381.198 and first sentence of paragraph (a) are revised to read as follows:

§ 381.198 Importer to make application for inspection of poultry products offered for entry.

(a) Each person who wishes to offer for entry any slaughtered poultry or other poultry product shall make application for inspection to the import supervisor of the import field office at the port where the poultry product is to be offered for entry, or to the Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, as long as possible in advance of the anticipated arrival of each consignment of such product, except in the case of poultry product exempted from inspection by §§ 381.207 or 381.209. * * *

19. Paragraphs (a)(1) and (b) and the heading of § 381.199 are revised to read as follows:

§ 381.199 Inspection of poultry products offered for entry.

(a)(1) Except as provided in §§ 381.198(b)(1) and 381.209 of this part, and paragraph (c) of this section, all slaughtered poultry and poultry products offered for entry from any foreign country shall be reinspected by a Program import inspector before they shall be allowed entry into the United States.

* * * * *

(b) Inspectors may take, without cost to the United States, from each consignment of poultry products offered for entry, such samples of the products as are deemed necessary to determine the eligibility of the products for entry into the commerce of the United States.

* * * * *

20. The first sentence of paragraph (c) and the heading of § 381.200 are revised to read as follows:

§ 381.200 Poultry products offered for entry, retention in customs custody; delivery under bond; movement prior to inspection; sealing; handling; facilities and assistance; official seal.

* * * * *

(c) Means of conveyance or outside containers in which any poultry product intended to be offered for entry is moved, prior to inspection from the port or wharf where first unloaded in the United States, shall be sealed with the official seals of the Department of Agriculture as prescribed in paragraph (h) of this section or otherwise identified as provided in this paragraph unless already sealed with customs or consular seals in accordance with the customs regulations. * * *

* * * * *

21. The heading of § 381.201 is revised to read as follows:

§ 381.201 Means of conveyance and equipment used in handling poultry products offered for entry to be maintained in sanitary condition.

22. The heading and text of § 381.203 are revised to read as follows:

§ 381.203 Products offered for entry; charges for storage, cartage, and labor with respect to products which are refused entry.

All charges for storage, cartage, and labor with respect to any product offered for entry which is refused entry pursuant to the regulations shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any other products offered for entry thereafter by or for such owner or consignee.

23. Paragraph (a) of § 381.204 is revised to read as follows:

§ 381.204 Marking of poultry products offered for entry; official import inspection marks and devices.

(a) Except for products offered for entry from Canada, poultry products which upon reinspection are found to be acceptable for entry into the United States shall be marked with the official inspection legend shown in paragraph (b) of this section. Such inspection legend shall be placed upon such products only after completion of official import inspection and product acceptance.

* * * * *

24. The heading and paragraphs (a) and (c) of § 381.205 are revised to read as follows:

§ 381.205 Labeling of immediate containers of poultry products offered for entry.

(a) Immediate containers of poultry products imported into the United States shall bear a label printed in English showing in accordance with Subpart N of this part all information required by that section (except that the inspection mark and establishment number assigned by the foreign poultry inspection system and certified to the Inspection Service shall be shown instead of the official dressed poultry identification mark or other official inspection legend, and official establishment number); and in addition the label shall show the name of the country of origin preceded by the words "Product of," which statement shall appear immediately under the name of the product.

* * * * *

(c) Labels for immediate containers of imported poultry products shall be submitted for approval in sketch form to the Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, USDA, Washington, DC 20250. * * *

25. The heading and the first sentence of § 381.206 are revised to read as follows:

§ 381.206 Labeling of shipping containers of poultry products offered for entry.

Shipping containers of imported poultry products are required to bear in a prominent and legible manner the name of the product, the name of the country of origin, the foreign inspection system establishment number of the establishment in which the product was processed, and the inspection mark of the country of origin. * * *

26. Section 381.207 up to the proviso is revised to read as follows:

§ 381.207 Small importations for consignee's personal use, display, or laboratory analysis.

Any poultry product (other than one which is forbidden entry by other Federal law or regulation) from any country in quantities of less than 50 pounds net weight, exclusively for the personal use of the consignee, or for display or laboratory analysis by the consignee, and not for sale or distribution; which is sound, healthful, wholesome, and fit for human food, and which is not adulterated and contains no substance not permitted by the Act or regulations, may be imported into the United States without a foreign inspection certificate, and such product is not required to be inspected upon arrival in the United States and may be shipped to the consignee without further restriction under this part, except as provided in § 381.199(c): * * *

27. The heading and paragraphs (a) and (b) of § 381.208 are revised to read as follows:

§ 381.208 Poultry products offered for entry and entered to be handled and transported as domestic; entry into official establishments; transportation.

(a) All poultry products, after entry into the United States in compliance with this subpart, shall be deemed and treated and, except as provided in § 381.207, shall be handled and transported as domestic products, and shall be subject to the applicable provisions of this part and to the provisions of the Poultry Products

Inspection Act and the Federal Food, Drug, and Cosmetic Act.

(b) Poultry products entered in accordance with this subpart may, subject to the provisions of the regulations, be taken into official establishments and be mixed with or added to poultry products that are inspected and passed or exempted from inspection in such establishments.

* * * * *

Done in Washington, DC, on October 2, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 89-23633 Filed 10-4-89; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ANE-24; Amdt. 39-6344]

Airworthiness Directives; Pratt & Whitney (PW) JT3D-3B and JT3D-7 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires that certain PW JT3D-3B and JT3D-7 engines returned to service by Jet Power, Inc. (JPI) (FAA Repair Station No. 705-70) be removed from service within 30 calendar days after the effective date of this AD.

An FAA audit of JPI revealed unacceptable engine repair practices which may result in a reduced level of safety for engines approved for return to service by this repair station. This AD is needed to prevent the development of an unsafe condition such as disk rupture, engine fire, loss of engine power, engine instability, or other circumstances inhibiting normal engine operation.

EFFECTIVE DATE: October 31, 1989.

Comments for inclusion in the docket must be received on or before November 30, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 89-ANE-24, 12 New England Executive Park, Burlington, Massachusetts 01803; or delivered in duplicate to Room 311 at the above address.

Comments must be marked: Docket No. 89-ANE-24.

Comments may be inspected at the above location in Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service information may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. This information may be examined at the Federal Aviation Administration, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: The FAA has determined that certain engines approved by JPI for return to service may be unairworthy due to inadequate repair and overhaul practices.

The FAA audit of JPI, conducted during June 21-24, 1989, and August 7-14, 1989, revealed numerous irregularities. Specifically, this repair station had approved for return to service an engine in which a second stage turbine disk containing seven cracks was installed. This disk had been inspected and documented as cracked by the previous owner/operator. In another instance, an engine was approved for release to service with a stage four compressor disk which had been inspected by its previous owner/operator, and found to have exceeded dimensional limits. Several other engines were approved for release to service with negative exhaust gas temperature (EGT) margin. A review of JPI records also indicated inadequate recordkeeping on engine life-limited rotating components, and errors in the documentation of cyclic utilization for a certain turbine disk. Also, in numerous cases where used engine components were obtained from JPI's stock, neither the origins for these components were established, nor was the airworthiness of the components determinable through review of the component records prior to approval for return to service.

Additionally, this repair station has acquired engines without sufficient maintenance recordkeeping to determine the types of previous engine maintenance programs or whether the engine had been involved in a previous accident. Without such knowledge of prior history, a complete engine overhaul, component removal from service, or other appropriate action may be necessary.

This AD requires that these engines be removed from service within 30 calendar days after the effective date of this AD. To return the engines to service, (a) an engine overhaul must be accomplished and, if applicable, the special inspections required on engine components removed from engines previously involved in an accident be accomplished, or (b) submit the repair/overhaul records identified in the body of this AD to the FAA for review and obtain an FAA approval to return the engine to service. Upon review of the relevant data submitted to the FAA, a determination of relaxed or additional requirements on certain engines prior to return to service may be possible.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 calendar days.

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above.

All communications received on or before the closing date for comments will be considered by the FAA. This rule may be amended in light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available both before and after the closing date for comments in Room 311, at the Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance

of the AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this amendment must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 89-ANE-24. The postcard will be date/time stamped and returned to the commenter.

The regulations adopted herein do 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 various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implication 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 further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, and Aviation safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (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: Applies to Pratt & Whitney (PW) JT3D-3B and JT3D-7 turbofan engines approved for return to service by Jet Power, Inc. (JPI), FAA Repair Station No. 705-70, located at 4275 Northwest 77th Avenue, Miami, Florida, identified by serial number (S/N) as follows:

630197;
631102, 631540, 631996;
632276, 632282, 632285, 632339, 632340, 632346, 632351, 632408, 632478, 632481, 632487, 632749, 632842, 632846, 632852, 632962, 632966, 632968, 632973;
633040, 633495, 633541, 633558, 633564, 633607, 633609, 633615, 633669, 633732, 633742, 633744;
634616;
642390, 642490, 642512, 642901, 642910, 642914, 643332, 643471, 642715, 643803, 643812, 643899, 643904, 643973;
644047, 644071, 644131, 644200, 644218, 644306, 644359, 644667, 644756, 644953, 644973;
645017, 645030, 645051, 645088, 645128, 645145, 645177, 645214, 645294, 645370, 645401, 645407, 645570, 645675, 645753, 645769, 645785, 645854, 645865, 645913, 645915, 645977, 645999;
646001;
667054, 667677, 667736, 667792, 667879, 667932, 667979;
668042, 668103, 668229, 668312, 668331, 668373, 668430, 668557, 668594, 668603, 668609, 668658, 668678, 668827, 668877;
669156, 669252, 669324, 669360, 669375, 669377, 669411, 669425, 669484, 669564, 669583, 669644, 669690, 669793, 669797, 669801;
670744;
671102, 671133, 671133, 671141, 671233, 671254, 671340,
671391, 671425;
675803;
678988, 678994, 678999;
688430.

Compliance is required within the next 30 calendar days after the effective date of this AD, unless already accomplished.

To ensure the continuing structural integrity and certificated performance capabilities of JT3D-3B and JT3D-7 turbofan engines, accomplish the following:

(a) Remove from service those engines identified above.

(b) Engines removed from service in accordance with paragraph (a) above may be returned to revenue service by accomplishing either one of the two following requirements:

(1) Accomplish the overhaul manual requirements on all parts, sub-assemblies, accessories, and components installed on the engine and, if any of the engines or components of the engines referred to in paragraph (a) have been in an accident, accomplish the pertinent overhaul manual special check and inspection requirements. The engine overhaul and special inspection requirement must be accomplished in accordance with the requirements of Pratt & Whitney JT3D-3B Overhaul Manual, Part Number (P/N) 411568, Revision 78, dated December 15, 1988, or Pratt & Whitney JT3D-7 Overhaul Manual P/N 615105, Revision 50, dated December 15, 1988, as applicable.

Note.—The Light Overhaul Manual requirements, included in the above overhaul manuals, are not applicable in this case.

(2) Submit to the FAA, Manager, Engine Certification Office, through the cognizant FAA Airworthiness Inspector, all the pertinent records identified below for review, and obtain a written FAA approval prior to returning an engine to service:

(i) If the parts, sub-assemblies, accessories, or other components of an engine approved for return to service by JPI were subjected to overhaul or maintenance activities during the last shop visit at JPI, provide records establishing the origin and/or the prior service history of the subject parts. If the determination of the origin of such parts leads to other engines, the records for reason of removal from service, and if available, trend monitoring data for those engines must also be included. Provide records of accomplishment of the required inspections, checks, tests, as applicable in accordance with engine manual requirements that establish the components' airworthiness.

(ii) A list of all life limited components by S/N, service history, and current status as required by FAR Part 121, Section 380, or FAR Part 91, Section 173, as appropriate.

(iii) All repair or overhaul records, concerning the last shop visit at JPI, as required by FAR Part 121, Section 380, or FAR Part 91, Section 173, as appropriate.

(iv) Substantiating evidence that the work performed during the last shop visit at JPI was done in accordance with FAA approved data as required by the FAR's.

(v) Engine acceptance test data or engine "on-wing" test data, accomplished after repair or overhaul, whichever is applicable.

(vi) Engine operation trend monitoring data, if available, for the current engine installation.

(vii) A list by P/N or S/N of any engine, part, sub-assembly, accessory, or component acquired from JPI that has been known to have been involved in an accident.

Note.—If engine owners, operators, or cognizant Civil Aviation Authorities outside the United States wish to have the FAA's assistance in this effort, they may contact the FAA at the following address: Federal Aviation Administration, Engine and Propeller Directorate, Aircraft Certification Service, Attention: Manager, Engine Certification Office, ANE-140, 12 New England Executive Park, Burlington, Massachusetts 01803.

Information collection requirements contained in the amendment to Section 39.13 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control No. 2120-0056.

(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 times in this AD, may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12

New England Executive Park, Burlington, Massachusetts 01803.

The engine overhaul and special inspection requirements shall be done in accordance with PW JT3D-3B Overhaul Manual P/N 411568, Revision 78, dated December 15, 1988, or JT3D-7 Overhaul Manual P/N 615105, Revision 50, dated December 15, 1988, as applicable. The sections of these manuals pertinent to Light Overhaul are not applicable. All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803.

This amendment becomes effective on October 31, 1989.

Issued in Burlington, Massachusetts, on September 19, 1989.

Jay J. Pardee,

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

[FR Doc. 89-23538 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-56-AD; Amdt. 39-6350]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires periodic inspections of the fuselage skin just above the forward main entry doors for cracks emanating from the circumferential skin splice, and modifications, if necessary. This amendment is prompted by reports of cracks on 15 airplanes in this area. This condition, if not corrected, could lead to loss of cabin pressure during flight.

EFFECTIVE DATE: November 13, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANM-120S; telephone (206) 431-1925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 747 series airplanes, which requires periodic inspections of the fuselage skin just above the forward main entry doors for cracks emanating from the circumferential skin splice, and modifications, if necessary, was published in the **Federal Register** on May 22, 1989 (54 FR 21969).

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

One commenter requested that paragraph A. be revised to allow a detailed external visual inspection, with paint removed, at 1,000-cycle intervals, as an option, in lieu of the high frequency eddy current (HFEC) inspections at 3,000-cycle intervals. The FAA does not concur with this request. It is known that the cracking originates at multiple locations in the skin splice and these small cracks can affect strength before they become visible. The HFEC inspections will be more effective in finding cracking before it reaches critical proportions.

Two commenters requested that the restrictions to two coats of paint, or less, when conducting eddy current inspections of the skin be deleted. The FAA concurs. The FAA has determined that eddy current inspections may be reliably performed as long as the outline of the fastener is clearly visible through the paint. The final rule has been revised accordingly.

Two commenters requested that the AD include provisions for deferral of repair of certain small skin cracks. The FAA does not concur. Recent service experience has indicated that repair deferrals are not always prudent, even when supported by the engineering data, because the possibility of human error in either the interpretation or execution of the crack repair deferral inspection requirements could result in an unsafe condition. The inspection intervals specified in the AD are long enough to allow inspections to be performed at a time when repair action can be taken; therefore, the deferral of the repair should not normally be required. In certain special situations, when justified, repair deferral could be accomplished on a case-by-case basis using an adjustment of compliance time, as provided for in the paragraph F. of the final rule.

Two commenters requested inclusion of an alternative repair scheme if cracking is found in the skin, but no cracking is found in the internal splice strap. The FAA concurs. The alternative repair scheme, along with necessary inspections for the repair, have been included in the final rule. The repaired area would be subject to modification when the airplane reaches 20,000 flight cycles in accordance with the 747 Aging Fleet Modification Program, proposed in Notice of Proposed Rulemaking, Docket No. 89-NM-68-AD (54 FR 22300; May 23, 1989).

One commenter stated that flight cycles during which the cabin pressure differential does not exceed 1.5 psi do not cause significant fatigue damage, and suggested that these cycles not be counted when determining the number of landings on an airplane for the inspection requirements of this AD. The FAA concurs and has revised the final rule accordingly.

One commenter requested that terminating action be allowed either in accordance with Revision 1 of the service bulletin or in accordance with the original issue, since these modifications are essentially the same. The FAA concurs and has revised the final rule accordingly.

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

There are approximately 205 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 113 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $13,560.

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

to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

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

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

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

Boeing: Applies to Model 747 series airplanes, listed in Boeing Service Bulletin 747-53-2289, Revision 1, dated January 26, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent cabin pressure loss due to fatigue cracks in the skin at body station (BS) 460 just above left and right number 1 main entry doors, accomplish the following:

A. Prior to the accumulation of 10,000 landings, or within the next 1,000 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,000 landings, conduct a high frequency eddy current (HFEC) inspection of the fuselage skin along the aft row of fasteners at the left and right BS 460 circumferential splices between stringers S-14E and S-16 for cracks, in accordance with Boeing Service Bulletin 747-53-2289, Revision 1, dated January 26, 1989. If the external doubler modification forward of BS 460 has not previously been installed in accordance with Boeing Service Bulletins 747-53-2181 or 747-53-2105, then also conduct a HFEC insection of the fuselage skin along the forwardmost row of fasteners of the same skin splice.

B. To conduct the inspections required by this AD, remove the paint, using an approved chemical stripper, or ensure that the fastener heads are clearly visible.

C. If cracks are found when conducting the inspections required by paragraph A., above, accomplish either paragraph C.1. or C.2., below:

1. Prior to further flight, modify the affected BS 460 circumferential splice in accordance with Boeing Service Bulletin 747-53-2289, Revision 1, dated January 26, 1989. Cracks found in the internal splice strap while performing the modification must be repaired in accordance with the 747 Structural Repair Manual (SRM) concurrently with accomplishment of the skin modification.

2. Prior to further flight, perform an internal HFEC inspection of the aft row of fasteners of the internal splice strap to verify there are no cracks in the internal splice strap. This HFEC inspection must be conducted using a HFEC pencil probe, 360 degrees around the fastener heads, in accordance with Boeing Document D6-7170, Section 51-00-00, Figure 4. Repair the skin cracks prior to further flight, in accordance with the 747 SRM. Continue to inspect the unrepaired areas of the skin in accordance with paragraph A., above.

a. In addition, conduct an internal HFEC pencil probe inspection, 360 degrees around the fastener heads of the aft row of the internal splice strap at all fastener locations between stringer S-14E and S-15 between S-15 and S-16, at intervals not to exceed 1,000 landings, in accordance with the aforementioned Boeing Document. If cracks are found in the internal splice strap, prior to further flight, modify in accordance with paragraph C.1, above.

b. Prior to the accumulation of 20,000 landings, modify the affected BS 460 circumferential splice in accordance with paragraph C.1., above.

D. Terminating action for the HFEC inspection requirements of paragraph A., above, consists of modification of the left and right BS 460 circumferential splices between S-14E and S-16 in accordance with Boeing Service Bulletin 747-53-2289, original issue, dated October 22, 1987, or Revision 1, dated January 26, 1989.

E. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles in which the cabin pressure differential was greater than 1.5 psi.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 13, 1989.

Issued in Seattle, Washington, on September 26, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-23539 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-125-AD; Amdt. 39-6348]

Airworthiness Directives; CASA Model C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to CASA Model C-212 series airplanes, which currently requires replacement of certain elevator, rudder, and aileron trim control system rods, levers, links, and tabs. This amendment requires similar replacement in accordance with a later revision to the service bulletin specified in the existing AD, and provides additional time for compliance. This amendment is prompted by reports that the kits and service information previously supplied by the manufacturer could not be utilized on all airplanes. This condition, if not corrected, could result in airframe damage due to flutter.

DATE: Effective October 5, 1989.

ADDRESSES: The applicable service information may be obtained from Contrucciones Aeronauticas S.A. (CASA) Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Direcorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Bob McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD

87-18-08 R1, Amendment 39-6013 (53 FR 34038; September 2, 1988), applicable to CASA Model C-212 series airplanes, to require replacement of certain elevator, rudder, and aileron trim control system rods, lever, links, and tabs, was published in the **Federal Register** on July 31, 1989 (54 FR 31537).

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

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

In light of the fact that this amendment "rescinds" a requirement that would have been effective on October 15, 1989, the FAA finds good cause to make this amendment effective upon publication in the **Federal Register**.

It is estimated that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 275 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The required parts are estimated to cost $60,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,124,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6013 (53 FR 34038; September 2, 1988), AD 87-18-08 R1, with the following new airworthiness directive:

Casa: Applies to all Model C-212 series airplanes, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished.

To prevent airframe damage due to flutter caused by certain single failure conditions of the trim control system components, accomplish the following:

A. Replace elevator, rudder, and aileron trim control system components, in accordance with CASA Service Bulletin 212-27-25, Revision 6, dated February 24, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Contrucciones Aeronauticas S.A. (CASA) Getafe, Madrid, Spain. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment supersedes Amendment 39-6013, AD 87-18-08-R1.

This amendment becomes effective October 5, 1989.

Issued in Seattle, Washington, on September 22, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-23543 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 779 and 799

[Docket No. 90932-9232]

Revisions to the Commodity Control List Based on COCOM Review; Chemical and Petroleum Equipment; Transportation Equipment; Electronics and Precision Instruments; Chemicals, Metalloids, Petroleum Products and Related Materials

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends a number of Export Control Commodity Numbers in the CCL and the technical data provisions of part 779 of the Export Administration Regulations (15 CFR parts 768 through 799). Changes in the list represent a comprehensive review by COCOM of a quarter of the list. Certain entries have been rewritten for clarity, and some commodities have been relocated to different entries. A few items not previously subject to national security control have been added (e.g., titanium diboride). Most of the changes represent partial or total decontrol of entries.

This rule amends 15 CFR part 779, Supplement No. 3 to part 779, Supplement No. 4 to part 779, and a number of Export Control Commodity Numbers on the CCL in Commodity Group 4 (Transportation Equipment), Commodity Group 5 (Electronics and Precision Instruments), Commodity Group 6 (Metals, Minerals, and Their Manufacturers) and Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials). This rule also amends the licensing requirements for technical data related to these commodities. In addition, this rule removes three ECCNs: In Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 1142A; in Commodity Group 4 (Transportation Equipment), ECCN 2418A; in Commodity Group 5 (Electronics and Precision Instruments), ECCN 1505A; and in Commodity Group 5 (Electronics and Precision Instruments), ECCN 1560A. Commodities covered in ECCN 1142A have been transferred to ECCN 1754A. Commodities covered in ECCN 2418A have been transferred to ECCN 1418A.

With the concurrence of the Departments of State and Defense, the Department of Commerce has determined that this rule is consistent with the U.S. national security provisions of section 5 of the Export Administration Act of 1979, as amended.

EFFECTIVE DATE: This rule is effective October 1, 1989.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature on transportation equipment, call Bruce Webb, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-3806.

For questions of a technical nature on semiconductor manufacturing equipment, call Robert Anstead, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-1641.

For questions of a technical nature on communications equipment, call Joseph Westlake, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-0730.

For questions of a technical nature on chemicals, metalloids, petroleum products and related materials, call Jeff Tripp, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-1309.

For questions of a technical nature on software covered in Supplement 3 to part 779, call Randy Williams, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-0708.

For general inquiries, call Kathryn Sullivan, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-4479.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005, 0694-0007 and 0694-0010.

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

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule implements regulatory changes based on COCOM review.

Accordingly, it is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Kathryn Sullivan, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 779 and 799

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, parts 779 and 799 of the Export Administration Regulations (15 CFR parts 730 through 799) are amended as follows:

1. The authority citation for 15 CFR parts 779 and 799 continues to read as follows:

Authority: Pub. L. 96-72, 83 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985 and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 779—[AMENDED]

2. Section 779.4(d) is amended by adding a heading to paragraph (d) immediately preceding introductory text; by redesignating paragraph (d)(25) as new paragraph (d)(26) and adding a new paragraph (d)(25) to read as follows:

§ 779.4 General License GTDR: Technical data under restriction.

* * * * *

(d) *Restrictions applicable to all destinations except Canada.* * * *

* * * * *

(25) Technical data including "specially designed software" for submersible systems, as follows, covered in ECCN 1417A; as follows:

(i) Air-independent power systems controlled by paragraph (h)(1), (h)(2) or (h)(3) in ECCN 1417A;

(ii) Subsystems controlled by paragraph (h)(1)(i), (h)(1)(ii), (h)(1)(iii), (h)(3)(i) or (h)(4) in ECCN 1417A; *and*

(iii) Subsystems described in paragraph (h)(2)(i), (h)(2)(ii) or (h)(2)(iii) in ECCN 1417A.

(26) * * *

Supplement No. 3 to Part 779 [Amended]

3. Supplement No. 3 to part 779, "Computer Software", is amended:

By revising in Technical Note 2 the second paragraph following the introductory text and beginning with the phrase "Software" to convert";

By revising paragraphs (c)(2), (c)(3) and (c)(8);

By revising in the introductory text of Advisory Note 9 and in paragraph (a) of Advisory Note 9 the phrase "ECCN 1565" to read "ECCN 1565A";

By removing in the introductory text of Advisory Note 10 the phrase "ECCN 1533, Advisory Note 6, or";

By revising in the introductory text of Advisory Note 10 the phrase "ECCN 1565" to read "ECCN 1565A";

By revising paragraphs (a)(3)(i) and (a)(3)(ii) of Advisory Note 10 as set forth below;

By removing paragraph (a)(3)(iii) of Advisory Note 10;

By revising in the introductory text of Advisory Note 11 the phrase "ECCN 1565" to read "ECCN 1565A";

By revising in paragraph (a) of Advisory Note 11 the phrase "ECCN 1565(h)(1)(i) (A), (B) or (C)" to read "ECCN 1565A(h)(1)(i)(A), (h)(1)(i)(B), or (h)(1)(i)(C)"; and

By revising in paragraph (f) under the definition of "Related equipment" in Advisory Note 12 the phrase "ECCN 1565" to read "ECCN 1565A" and the phrase "ECCN 1572" to read "1572A", as follows:

Supplement No. 3 to Part 779—Computer Software

* * * * *

Technical Notes:

1. * * *

2. * * *

"Development system"—* * *

"Programming system"—

"Software" to convert a convenient expression of one or more processes ("source code" or "source language") into equipment

executable form ("object code" or "object language").

"Diagnostic system"—* * *

* * * * *

List of Software Subject to This Supplement to Part 779:

* * * * *

(c) "Specially designed software" for equipment, as follows:

(1) * * *

(2) Equipment controlled under ECCN 1417A;

(3) Equipment controlled under ECCN 1501A;

* * * * *

(8) Equipment controlled under ECCN 1520A(b);

* * * * *

Advisory Notes

* * * * *

Advisory Note 10: * * *

(a) * * *

(3) "Specially designed software" for:

(i) Equipment approved for export under ECCN 1565A, Advisory Note 5, for one or more of the functions described in ECCN 1565A(h)(1)(i)(A), (h)(1)(i)(B) or (h)(1)(i)(D); *or*

(ii) Equipment approved for export under ECCN 1565A, Advisory Note 9, for one or more of the functions described in ECCN 1565A(h)(1)(i)(A), (h)(1)(i)(B) or (h)(1)(i)(C);

* * * * *

Supplement No. 4 to Part 779 [Amended]

4. Supplement No. 4 to part 779 "Additional Specifications for Certain Technical Data Requiring a Validated License to All Destinations Except Canada" is amended:

By revising paragraphs (a) and (b) and adding a new paragraph (c) in the Note in paragraph (6)(vi) as set forth below;

By adding paragraph (6)(xiii) at the end of paragraph (6) as follows:

Supplement No. 4 to Part 779—Additional Specifications for Certain Technical Data Requiring A Validated License to All Destinations Except Canada

* * * * *

(6) * * *

(vi) * * *

Note: * * *

(a) Constructed wholly of wood or glass-fiber-reinforced plastics;

(b) Constructed mainly of wood or glass-fiber-reinforced plastics; and using other materials only in the leading edge or tip; *or*

(c) Constructed mainly of glass-fiber-reinforced or carbon-fiber-reinforced plastics.

* * * * *

(xiii) Technical data for the development and production of integrated automated propulsion and airfoil control systems for tilt wing and tilt rotor aircraft.

* * * * *

PART 779—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

5. In Supplement No. 1 to § 799.1 (the Commodity Control List), the following Export Control Commodity Numbers (ECCNs) are removed:

In Commodity Group 1 (Chemical and Petroleum Equipment) ECCN 1142A;

In Commodity Group 5 (Electronics and Precision Instruments), ECCN 1505A;

In Commodity Group 5 (Electronics and Precision Instruments), ECCN 1560A.

Supplement No. 1 to § 799.1 [Amended]

6. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment) ECCN 1416A is amended:

By revising paragraphs (b) and (d)(3);

By revising paragraphs (e)(1) and (e)(2);

By revising paragraphs (f)(1), (f)(2) and (f)(3)(ii);

By adding a new paragraph (f)(4) and a new Note and Technical Note following paragraph (f)(4); and

By revising paragraphs (h) introductory text, (h)(3), (h)(5), (h)(7), (h)(10) and (h)(11); as follows:

1416A Vessels, surface-effect vehicles, water-screw propellers and hub assemblies, water-screw propeller systems, moisture and particulate separator systems and specially designed components.

* * * * *

List of Equipment Controlled by ECCN 1416A

* * * * *

(b) Surface-effect vehicles, i.e., hovercraft, air cushion vehicles (both sidewall and skirted varieties) and all variations of vehicles using the wing-in-ground effect for positive lift, *except hovercraft having all of the following characteristics:*

(1) *Designed to carry fewer than 5 passengers including the driver;*

(2) *Dry mass less than 500 kg;*

(3) *Maximum speed less than 50 knots (90 km/h) at Sea State 0; and*

(4) *Not designed for operation above Sea State 3;*

(c) * * *

(d) * * *

(3) Closed ventilation systems designed into the vessel that are designed to maintain air purity and positive pressure regardless of the conditions external to the vessel, *except where those closed ventilation systems are specially designed for and incorporated in the vessel's medical facilities only;*

* * * * *

(e) * * *

(1) Supercavitating propellers rated at more than 7.46 MW (10,000 hp);

(2) Controllable-pitch propellers and hub assemblies rated at more than 29.83 MW (40,000 hp) capacity;

(f) * * *

(1) Contrarotating propeller systems rated at more than 14.92 MW (20,000 hp);

(2) Ventilated, base ventilated and super-ventilated propeller systems and semi-submerged propeller systems (or surface propellers) rated at more than 2.24 MW (3,000 hp);

(3) * * *

(i) * * *

(ii) Other vessels with propeller rotational speeds above 20 rev/min. or with propellers rated at more than 44.74 MW (60,000 hp) per shaft;

(4) *"Pumpjet Systems";*

Note: Subparagraph (4) above does not control technical data for flow conditioning vane techniques equipment.

Technical Note: "Pumpjet systems" are propulsion systems that utilize divergent nozzle and flow conditioning vane techniques to improve propulsive efficiency or reduce propulsion generated underwater radiated noise.

(g) * * *

(h) Specially designed components for vessels controlled by paragraphs (a), (b) and (c) of this List, as follows:

* * * * *

(3) Lightweight structural components for SWATH vessels, hydrofoil vessels and surface-effect vehicles, constructed using anisotropic, orthotropic or sandwich construction methods;

* * * * *

(5) Active systems for automatically controlling the stability of SWATH vessels, hydrofoil vessels or surface-effect vehicles;

(6) * * *

(7) Lightweight, high capacity (K factor higher than 150) gearing (planetary, cross-connect and multiple input-output gears and bearings) for SWATH vessels, hydrofoil vessels and surface-effect vehicles;

* * * * *

(10) Lift fans for surface-effect vehicles, rated at more than 300 kW (400 hp);

(11) Waterjet propulsor systems for hydrofoil vessels and surface-effect vehicles rated at an input of 2.24 MW (3,000 hp) or more.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

7. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 1417A is amended:

By revising the ECCN heading;

By adding a new Note immediately following the heading;

By revising in paragraph (a) the phrase "Automatically controlled atmosphere regeneration" to read "Automatically-controlled atmosphere-regeneration";

By revising paragraph (c)(1) and the Technical Note following paragraph (c)(1);

By revising paragraph (c)(2) and adding a new Note to follow paragraph (c)(2);

By revising paragraph (e) introductory text, and (e)(3) through (e)(5), and adding new paragraphs (e)(6) through (e)(8);

By revising paragraph (f);

By adding new paragraphs (g) and (h) and a new parenthetical phrase immediately following new paragraph (h); as follows:

1417A Submersible systems (including those incorporated in a submersible vehicle) and specially designed components therefor.

Note: For "specially designed software", see Supp. No. 3 to part 779.

* * * * *

List of Equipment Controlled by ECCN 1417A

* * * * *

(c) * * *

(1) Television systems (comprising camera, lights, monitor and signal transmission equipment) specially designed or modified for remote operation with a submersible vehicle, having a "limiting resolution", when measured in the air, or more than 500 lines, or underwater television cameras having a "limiting resolution", when measured in the air, of more than 600 lines, using IEEE Standard 208/1960 or any equivalent standard;

Technical Note: "Limiting resolution" in television is a measure of horizontal resolution usually expressed in terms of the maximum number of lines per picture height discriminated on a test chart.

(2) Systems specially designed or modified for remote operation with a submersible vehicle employing techniques to minimize the effects of back-scatter, including range-gated illuminators and laser systems; Note: Export controls of underwater vision systems using lasers is defined in this ECCN.

(d) * * *

(e) Photographic cameras and associated equipment specially designed or modified for underwater use, having a film format of 35mm or larger, incorporating any of the following:

* * * * *

(3) Taking more than 400 full frame exposures without changing the film;

(4) Autofocusing or remote focusing specially designed or modified for underwater use;

(5) Automatic back focal distance correction;

(6) Passive or automatic compensation control specially designed to permit underwater camera housings to be usable at depths exceeding 1,000 meters;

(7) Titanium underwater camera housings specially designed for depths exceeding 1,000 meters; *or*

(8) Automatic exposure control by using sensing devices in or external to the camera, if the camera is capable of operating at depths of more than 300 meters;

(f) Light systems, as follows, specially designed or modified for underwater use:

(1) Stroboscopic lights capable of:

(i) Light output energy of more than 250 Joules per flash; *or*

(ii) Flash rates of more than 5 flashes per second at a light output energy of more than 10 Joules per flash;

(2) Other lights and associated equipment, designed for operation with equipment controlled by paragraph (e)(1) or (e)(8) above;

(g) Specially designed components for the equipment controlled by paragraphs (a) through (f) above;

(h) Air-independent power systems and specially designed components therefor, as follows, specially designed for underwater use:

(1) Brayton, Stirling or Rankine Cycle Engine air-independent power systems having any of the following characteristics:

(i) Specially designed chemical scrubber or absorber subsystems to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

(ii) Specially designed subsystems for utilizing a monoatomic gas;

(iii) Specially designed devices for underwater noise reduction in frequencies less than 10 kHz, or special mounting devices for shock mitigation; *or*

(iv) Specially designed systems for pressurizing products of reaction or for fuel reformation, specially designed systems for the storage of products of the reaction, and specially designed systems for discharging the products of the reaction against a pressure of 100 kP (1 bar, 15 lb/sq. in.) or more;

(2) Diesel Cycle Engine air-independent systems having all of the following characteristics:

(i) Specially designed chemical scrubber or absorber subsystems to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

(ii) Specially designed subsystems for utilizing a monoatomic gas;

(iii) Specially designed devices for underwater noise reduction in frequencies less than 10 kHz, or special mounting devices for shock mitigation; *and*

(iv) Specially designed exhaust systems that do not continuously exhaust products or combustion;

(3) Alkaline, phosphoric acid or ion exchange membrane fuel cell air-independent power systems with an output exceeding 2 kW and operating at a temperature of less than 523K (250 °C), having any of the following characteristics:

(i) Specially designed enclosures for underwater noise reduction in frequencies less than 10 kHz, or special mounting devices for shock mitigation; *or*

(ii) Specially designed systems for pressurizing products of reaction or for fuel reformation, specially designed systems for the storage of products of the reaction, and specially designed systems for discharging the products of the reaction against a pressure of 100 kP (1 bar, 15 lb/sq. in.) or more; *and*

(4) Specially designed components for subsystems controlled by paragraphs (h)(1)(iii) or (h)(3)(i) or described in (h)(2)(iii) above;

Note: [Reserved]

(For electromechanical, semiconductor and radioactive devices, see ECCN 1205A.)

(For underwater "robots", see ECCN 1391A.)

* * * * *

Supplement No. 1 to § 799.1 [Amended]

8. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment) ECCN 1418A is amended:

By revising the ECCN heading;

By revising the "List of Equipment Controlled by ECCN 1418A";

By removing first parenthetical reference immediately following the list of controlled equipment;

By adding a new technical note at the end of the ECCN; as follows:

1418A Deep submergence vehicles and autonomous submersible vehicles.

* * * * *

List of Equipment Controlled by ECCN 1418A

Deep submergence vehicles and autonomous submersible vehicles as follows: (a) Deep submergence vehicles, manned or unmanned, tethered or untethered, capable of operating at depths exceeding 1,000 meters, and specially designed or modified associated systems and equipment therefor, including the following:

(1) Pressure housings or pressure hulls;

(2) Propulsion motors and thrusters;

(3) Hull penetrators or connectors;

(b) Other manned underwater vehicles that may "operate autonomously" for ten hours or more provided their maximum "range" underwater exceeds 15 nautical miles.

Technical Note: Definition of terms used in this ECCN 1418A:

"Operate autonomously." Fully submerged, without snorkel, all systems working and cruising minimum speed at which the submersible can safely control its depth dynamically by using its depth planes only, with no need for a support vessel or support base on the surface, sea-bed or shore, and containing a propulsion system for submerged or surface use.

"Range." Half the maximum distance the vehicle can cover.

Supplement No. 1 to § 799.1 [Amended]

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment ECCN 1460A is amended:

By revising the ECCN heading as set forth below:

By revising the undesignated paragraphs covering turbine blades in the paragraph designated "I. Materials and Manufacturing Procedures." of Note 8 as set forth below:

By removing in paragraph A of paragraph "I. Materials and Manufacturing Procedures" in Note 9 the phrase "Load carrying structures applying fiber techology"; as follows:

1460A Aircraft and helicopters, including tilt wing and tilt rotor aircraft, aero-engines and aircraft and helicopter equipment.

* * * * *

List of Nonmilitary Equipment controlled by ECCN 1460A

* * * * *

Note 8. * * *

I. Materials and Manufacturing Procedures.

* * * * *

Turbine blades on basis of directional solidification capable of operating in high gas temperature environments (in excess of 1,593K (1,320 °C)).

Turbine blades on basis of monocrystal technology.

Turbine blades consisting of several parts connected by diffusion bonding.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment) ECCN 1485A is amended:

By revising the ECCN heading and adding a Note before the existing Note to the heading as set forth below;

By revising the heading for the list of controlled equipment;

By revising paragraph (b) as set forth below;

By adding a new Technical Note immediately following paragraph (b)(2)(ii);

By revising paragraphs (c), (e), (f), (g) and (i);

By adding a Note immediately following paragraph (e); as follows:

1485A Inertial navigation systems, inertial equipment, gyroscopes (gyros) and accelerometers, as follows, and specially designed components thereof.

Note: See also ECCNs 1385A and Category VIII on the U.S. Department of State Munitions List Supp. No. 2 to part 770.

* * * * *

List of Equipment Controlled by ECCN 1485A

* * * * *

(b) "Integrated digital flight instrument systems" that include gyrostabilizers or automatic digital flight control systems for aircraft and "specially designed software" for the integration thereof, *except:*

(1) Flight instrument systems integrated solely for VOR, ILS, or MLS navigation and approaches; or

(2) Integrated flight instruments systems that:

(i) Have been in normal civil use for more than two years; and

(ii) Are standard equipment of "civil aircraft" and "civil helicopters";

Technical Note: "Integrated digital flight instrument system" is defined as a primary instrument and display system using digital data processing techniques to provide maneuver guidance information.

Note 1: An "integrated digital flight instrument system" is often integrated with an autopilot to the extent of embodying a common unit for setting up the required demands.

(c) Gyro-astro compasses and other devices that derive position or orientation by means of automatically tracking celestial bodies;

(d) * * *

(e) Automatic pilots used for purposes other than aircraft control and "specially designed software" for the integration therefor, except marine types for surface vessels;

Note: This paragraph (e) does not include automatic pilots for underwater vehicles that are covered in ECCN 1417A.

(f) Accelerometers, designed for use in inertial navigation systems or in guidance systems of all types, having either of the following characteristics:

(1) A threshold of 0.005 g or less; *or*

(2) A non-linearity of less than 0.25% of full scale output;

(g) Gyros with a rated free directional drift rate (rated free precession) of less than 0.5° (1 sigma or root mean square value (r.m.s)) per hour in a 1 g environment;

(h) * * *

(i) Inertial or other equipment using accelerometers controlled by paragraph (f) or (h) above or gyros controlled by paragraph (g) or (h) above, and systems incorporating such equipment, and "specifically designed software" for the integration thereof:

* * * * *

Supplement No. 1 to § 799.1 [Amended]

11. In Supplement No. 1 to § 799.1 the (Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1502A is amended:

By removing the Note immediately following Note 2;

By removing Note 3;

By redesignating Note 2 as Note 3;

By revising newly-designated Note 3;

By redesignating Note 4 as Note 2;

By revising newly designated Note 2;

By adding a new Note 4;

By revising paragraph (a) of Note 5;

By adding a Technical Note immediately following Note 5:

By removing Advisory Note 6 for the People's Republic of China; as follows:

1502A Communication, detection or tracking equipment of a kind using ultra-violet radiation, infrared radiation or ultrasonic waves, and specially designed components therefor.

* * * * *

List of Equipment Controlled by ECCN 1502A

Note 1: * * *

Note 2: This ECCN 1502A does not control:

(a) Industrial equipment employing cells not controlled by ECCN 1548A;

(b) Industrial and civilian intrusion alarm, traffic and industrial movement control and counting system;

(c) Medical equipment;

(d) Industrial equipment used for inspection, sorting or analysis of the properties of materials;

(e) "Simple education devices" that employ photocells;

(f) Simple devices for entertainment or for home use that employ photocells;

(g) Flame detectors for industrial furnaces;

(h) Equipment for non-contract temperature measurement for laboratory or industrial purposes using a single detector cell with no scanning of the detector;

(i) Instruments capable of measuring radiated power or energy having a response time constant exceeding 10 milliseconds;

(j) Equipment designed for measuring radiated power or energy for laboratory, agricultural or industrial purposes using a single detector cell with no scanning of the detector and single detector cell assemblies or probes specially designed therefor, having a response time constant exceeding 1 miscrosecond;

(k) Infrared geodetic equipment, provided that equipment uses a lighting source other than a laser and is manually operated, or uses a lighting source (other than a laser or a light-emitting diode) remote from the measuring equipment;

(l) Infrared communication equipment with characteristics not exceeding those in ECCN 1519A.

Note 3: This ECCN 1502A does not control ultrasonic devices;

(a) Operating in contact with a controlled material to be inspected;

(b) Used for industrial cleaning, sorting or materials handling;

(c) Used for emulsification;

(d) Used for homogenization;

(e) Used in "simple educational devices";

(f) Used in simple entertainment devices.

Note 4: This ECCN 1502A does not control underwater ultrasonic communication systems that do not have any of the following:

(a) Electronic beam steering;

(b) Encryption techniques; *or*

(c) A carrier frequency outside the range from 20 to 60 kHz.

Note 5: This ECCN 1502A does not control:

(a) Infrared thermal imaging equipment having all the following characteristics:

(1) The detector is a single element;

(2) The detector is neither a charge coupled device (CCD) nor an integrate-while-scan device;

(3) The detector is either:

(i) Not cooled; *or*

(ii) Cooled by using a liquid nitrogen Dewar vessel; *and*

(4) The equipment is:

(i) Non-ruggedized, medical equipment; *or*

(ii) Has both of the following:

(A) A resolution not exceeding 22,500 resolvable elements; *and*

(B) A Noise Equivalent Temperature Difference (NETD), (or temperature sensitivity) of no less than 273.25K (0.1°C);

Note: This paragraph (a) does not release Joule-Thompson coolers, cooling engines or thermoelectric coolers.]

(b) * * *

(Note: * * *)

Technical Note: The term "simple educational devices" is defined as devices designed for use in teaching basis scientific principles and demonstrating the operation of those principles in educational institutions.

Supplement No. 1 to § 799.1 [Amended]

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1510A is amended

By revising the heading for ECCN 1510A;

By redesignating paragraphs (a)(1)(iv)(C), (a)(1)(iv)(D) and (a)(1)(iv)(E) as (a)(1)(iv)(E), (a)(1)(iv)(F) and (a)(1)(iv)(G);

By revising paragraph (a)(1)(iv)(B) to read as follows;

By adding new paragraph (a)(1)(iv)(C) to read as follows;

By adding new paragraph (a)(1)(iv)(D) to read as follows;

By adding at the end of paragraph (b)(1) the word "*and*" immediately following the semicolon;

By adding at the end of paragraph (h)(2) in Note 7 the word "*or*" immediately following the semicolon.

1510A Marine or terrestrial acoustic or ultrasonic systems or equipment specially designed for positioning surface vessels or underwater vehicles, or for detecting or locating underwater or subterranean objects or features, and specially designed components of such systems or equipment, including but not limited to hydrophones, transducers, beacons, towed hydrophone arrays, beamformers and geophones (except moving coil or moving magnet electro-magnet geophones), except those systems or equipment listed below.

* * * * *

(a) * * *

(1) * * *

(iv)) * * *

(A) * * *

(B) They are not capable of processing responses from more than four beacons in the calculation of a single point;

(C) They do not use coherent signals from two or more beacons;

(D) They have neither devices nor "software" for the automatic correction of velocity-of-propagation errors for point calculation;

* * * * *

Supplement No. 1 to § 799.1 [Amended]

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1519A is amended:

By revising the ECCN heading to read as set forth below;

By revising in paragraph (b) the phrase "test equipment specially designed" to read "test equipment, including bit error rate test sets, specially designed";

By revising in the Technical Note's defined term "telecommunication transmission equipment" paragraph (a)(9) to read "Stored program controlled digital crossconnection equipment; and";

By correcting in Note 1 the final punctuation, replacing the semicolon with a period;

By correcting in paragraph (c) of the Note immediately following paragraph (a) of Note 2 the final punctuation, replacing the semicolon with a period.

1519A "Telecommunication transmission equipment", measuring and test equipment, as follows, and specially designed components and accessories therefor.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1520A is amended:

By revising the Note immediately following the ECCN heading;

By revising paragraph (a)(2) as set forth below;

By revising in paragraph (a)(3) the phrase "15 GHz" to read "19.7 GHz";

By revising in paragraph (a)(4)(iii) the phrase "kU- and kA-band" to read "Ku- and Ka-band";

By revising paragraph (a)(5) as set forth below;

By adding at the end of paragraph (a)(6)(iv) the word "*or*" immediately following the semicolon;

By revising in Note 3 paragraph (a) the phrase "45 Mbit per second" to read "45 million bit/s";

By removing in Note 4 paragraph (c) the word "*and*" after the semicolon; as follows:

1520A Radio relay communication equipment, specially designed test equipment, and specially designed components and accessories therefor.

Note: For "specially designed software" controlled by paragraph (b), see Supp. No. 3 to part 779.

* * * * *

List of Equipment Controlled by ECCN 1520A

(a) * * *

(1) * * *

(2) Microwave radio links:

(i) Designed for operation at a total bit rate not exceeding 45 million bit/s;

(ii) Not employing quadrature-amplitude-modulation (QAM) techniques above level 4 if the total bit rate exceeds 8.5 million bit/s; *and*

(iii) Not exceeding an operating frequency of 19.7 GHz;

* * * * *

(5) The equipment is specially designed for the transmission of television signals:

(i) Between camera and studio or studio and television transmitter; *and*

(ii) Not exceeding line-of-sight distance with respect to any one installation;

* * * * *

Supplement No. 1 to § 799.1 [Amended]

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1529A is amended:

By revising the the ECCN heading;

By revising the "Reason for Control" paragraph;

By revising the list of controlled equipment;

By revising the technical notes;

By revising the Note immediately following the technical notes;

By revising Note 1 following the technical notes;

By revising (Advisory) Note 2 for the People's Republic of China; as follows:

1529A Electronic equipment for testing, measuring or for microprocessor/microcomputer development, as follows.

* * * * *

Controls for ECCN 1529A

* * * * *

Reason for Control: National security; nuclear non-proliferation; foreign policy. Foreign policy controls apply for nuclear weapons delivery purposes to commodities described in paragraph (c) and (d) under the List below for launch and ground support equipment usable for complete rocket systems and unmanned air vehicle systems described in § 766.18(a).

* * * * *

List of Equipment Controlled by ECCN 1529A

(a) Any testing or measuring equipment:

(1) Not described in any other ECCN in the Commodity Control List; *and*

(2) Designed for use at frequencies exceeding 18 Ghz;

Note: This paragraph (a)(2) does not control the following equipment having a maximum specified operating frequency of 26.5 GHz or less:

(a) Power meters;

(b) Broadband noise sources; *or*

(c) Noise figure meters;

(b) Logic analysers having any of the following characteristics, and specially designed accessories and specially designed components therefor:

(1) More than a total of 64 channels;

(2) A synchronous (state) channel sampling rate of more than 50 MHz;

(3) An asynchronous (timing) channel sampling rate of more than 200 MHz;

(4) Probe interfaces and inverse assemblers, *except those designed for use with a microprocessor or microcomputer microcircuit "family" that contains at least one microprocessor or microcomputer microcircuit not controlled by ECCN 1564A;*

(c) Frequency standards having both of the following characteristics:

(1) Designed as reference standards for laboratory use; *and*

(2) Either of the following:

(i) A long-term drift (aging) over 24 hours or more of 1 part in 10^{10} or less; *or*

(ii) A short-term drift (instability) over a period from 1 to 100 seconds of 1 part in 10^{12} or less;

(d) Equipment containing frequency standards, having any of the following characteristics:

(1) Designed for mobile use and having a long-term drift (aging) over 24 hours or more of 1 part in 10^{9} or less;

(2) Designed for fixed ground use and having a long-term drift (aging) over 24 hours or more of 5 parts in 10^{10} or less; *or*

(3) A short-term drift (instability) over a period from 1 to 100 seconds of 1 part in 10^{12} or less;

(e) "Comb frequency generators" designed for use at frequencies exceeding 12.5 GHz;

(f) Instruments, as follows, designed for use at frequencies exceeding 1 GHz:

(1) Specially calibrated microwave instrumentation receivers capable of measuring amplitude and phase simultaneously;

Note: This paragraph (f)(1) includes receivers used in equipment for the near- and far-zone measurement of phase and amplitude patterns of antennae.

(2) Automatic "frequency (heterodyne) converters";

(3) Automatic "transfer oscillators";

(g) Digital counters, as follows:

(1) Capable of counting successive input signals with less than 5 ns time difference without prescaling (digital division) of the input signal (for counter/timers having a time interval measurement mode, see also (h) below)

(2) Employing prescaling of the input signal, in which the prescaler is capable of resolving successive input signals with less than 1 ns time difference;

(3) Capable of measuring "burst frequencies" exceeding 100 MHz for a burst duration of less than 5 ms;

(h) Time interval measuring equipment, having both of the following characteristics:

(1) Employing digital techniques; *and*

(2) Capable or measuring time intervals of less than 5 ns on a single shot basis;

(i) Digital voltage measuring equipment capable of more than 1,000 readings per second with a resolution of more than 4½ digits, not including changes in range or polarity;

Note: This paragraph (i) does not control:

(a) Visual quantization apparatus capable of providing an average value, displayed or not, of the results of the measurement;

(b) Multichannel analyzers of all types used in nuclear experimentation; *or*

(c) Industrial telemeasuring devices in which a pre-set storage value is used as a basis for measuring.

(j) General purpose data communication protocol analyzers, testers and simulators for X.25 level 3 and above as well as Integrated Services Digital Networks (ISDN) protocols (CCITT/ISO);

(k) Microprocessor or microcomputer development instruments or systems, capable of developing "software" for, or capable of programming microcircuits controlled by ECCN 1564A.

Note 1: This paragraph (k) includes accessories specially designed for these microprocessor or microcomputer development instruments or systems such as:

(a) "Cross-hosted" assemblers, "cross-hosted" compilers;

(b) Adapter interfaces for prototypes and/or emulation probes;

(d) Programmable read-only memory (PROM) programmers;

(e) Programmable read-only memory (PROM) copiers of a capacity of more than 32 kbit and a word length of more than 8 bit;

(f) So-called personality modules that contain more than one of the accessories enumerated under (a) to (e).

Note 2: This paragraph (k) does not control mircoprocessor or microcomputer development instruments or systems having all of the following characteristics:

(a) They can be used to develop "software" for, or to program a "family" of microprocessor or microcomputer microcircuits not designed within a controlled country.

(b) They can be used only for microprocessor or microcomputer microcircuits having both:

(1) An operand (data) word length of no more than 8 bits; *and*

(2) An arithmetic logic unit (ALU) not wider than 8 bits; *and*

(c) The "family" contains at least one microprocessor or microcomputer microcircuit that is not controlled by ECCN 1564A.

Note 3: "Cross-hosted" compilers or "cross-hosted" assemblers, needed for use with a particular microprocessor or microcomputer development instrument or system, not controlled by this paragraph (k), must contain only the minimum "software" in machine executable form to perform the functions for which they were designed. To make other,

incompatible instruments of systems perform the same functions must require:

(a) Modification of this "software"; *or*

(b) Additional of "programs".

Note 4: For "cross-hosted" compilers or "cross-hosted" assemblers that are not specially designed for use with microprocessor or microcomputer development instruments or systems described in this paragraph (k), see Supp. 3 to part 779.

Technical Notes: Definition of terms used in this ECCN 1529A.

1. *"Burst frequency"* measurement. The capability of a counter to start only when the input signal is present and stop counting at the completion of the burst.

2. *"Comb frequency generators."* Apparatus that generate a spectrum of harmonics.

3. *"Frequency (heterodyne) converters."* Equipment that down-converts an unknown frequency by mixing it with an accurately known frequency. This accurately known reference frequency is derived from a crystal, by multiplication of its frequency and passing it through a harmonic generator. By mixing the appropriate harmonic and the unknown frequency, an accurate third frequency results.

4. *"Transfer oscillators."* Like "frequency (heterodyne) converters," are based on the principle of harmonic mixing. The known reference frequency is derived from a local oscillator instead of from a crystal. The unknown frequency is mixed with the local oscillator frequency, the two are phase-locked by tuning the local oscillator and can then be measured by a counter.

5. *"Family."* Consists of microprocessor or microcomputer microcircuits that have:

(a) The same architecture;

(b) The same basic instruction set; *and*

(c) The same basic technology (e.g., only NMOS or only CMOS).

6. *"Pulse frequency profiling."* The capability of measuring the changes of frequency (or phase) within a pulse as a function of time; such changes in frequency would be present in a transmitted pulse-compression radar pulse ("chirp radar"). This profiling may be achieved by internal or external gating. "Pulse frequency profiling" is not intended to include "frequency modulation tolerance" while it is being frequency modulated and is of interest to the communication field. The ability to perform measurement of the time interval of the pulse itself (pulse width) as opposed to frequency measurements within a pulse is covered under time interval instruments in paragraph (f) above.

Note 1: For specially designed testing and measuring equipment controlled by other ECCNs on the Commodity Control List, see those ECCNs.

(Advisory) Note 2 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following equipment:

(a) Quartz or rubidium frequency standards not specially designed from military use;

(b) "Swept frequency network analyzers" or sweep generators for use at frequencies not exceeding 40 GHz and that cannot be controlled remotely;

(c) Instruments in which the functions can be controlled by the injection of digitally coded electrical signals from an external source where the maximum frequency does not exceed 20 GHz;

(d) Microprocessor and microcomputer development instruments for microcircuits that are included either in ECCN 6599G or in the Advisory Note for the People's Republic of China;

(e) Digital counters not having any of the following characteristics:

(1) Capable of performing frequency measurements above 20 GHz;

(2) Capable of measuring either the frequency or the change in phase or frequency within a pulse ("pulse frequency profiling:), using either internally or externally gated sampling intervals of 100 ns or less; *or*

(3) Capable of measuring "burst frequencies" exceeding 250 MHz for a burst duration of less than 2 ms;

(f) Time interval measuring equipment employing digital techniques, not capable of measuring time intervals of less than 1 ns on a single shot basis;

(g) PROM programmers controlled by paragraph (k) above.

Supplement No. 1 to § 799.1 [Amended]

16. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1531A is amended:

By revising the heading for List of Frequency Synthesizers controlled by ECCN 1531A;

By adding in paragraph (a) quotation marks around the phrase "Frequency synthesizers";

By revising in paragraph (a) the phrase "ECCN 1529A(a)(1)" to read "1529A(c)";

By adding in the introductory text of paragraph (b) quotation marks around the phrase "frequency synthesizers";

By adding in paragraph (b)(3) quotation marks around the phrase "Electrically programmable in frequency";

By revising in paragraph (b)(4) the phrase "except those equipments incorporating pre-emphasis networks for frequency modulation;" to read *"except those equipments incorporating pre-emphasis networks for frequency modulation;"*;

By revising in paragraph (b)(5) the word "or" to read *"or"*;

By adding in paragraph (b)(6) the word *"or"* after the semicolon;

By revising in paragraph (c)(1) the word "greater" to read "of more";

By revising in paragraph (c)(2) the phrase *"136 MHz incorporating facilities for the rapid selection of 720"* to read *"137 MHz incorporating facilities for the rapid selection of 760"*;

By adding in paragraph (c)(4) quotation marks around the phrase "frequency synthesizers";

By revising in paragraph (d)(1) the phrase "except non-ruggedized digitally-controlled preset type radio receivers designed for use in civil communications that have 200 selective channels or fewer;" to read *"except non-ruggedized digitally-controlled preset type radio receivers designed for use in civil communications that have 200 selective channels or fewer;"*;

By adding in paragraph (d)(2) quotation marks around the phrase "Frequency synthesizers";

By revising in paragraph (d)(2) the phrase *"except* those specially designed for receivers freed from control under paragraph (d)(1) above;" to read *"except those specially designed for receivers freed from control under paragraph (d)(1) above;"*;

By adding in paragraph (e)(1) the word "(less)" immediately following the word "better";

By adding in paragraph (e)(2) the word "(less)" immediately following the word "better";

By adding in paragraph (e)(3)(i) the word "(less)" immediately following the phrase "frequency resolution of not better";

By revising in paragraph (e)(3)(ii) the phrase "420 to 470 MHz" to read "403 to 470 MHz";

By adding in paragraph (e)(3)(ii) the word "(less)" immediately following the phrase "frequency resolution of not better";

By revising in paragraph (e)(3)(iii)(A) the phrase "420 to 960 MHz" to read "403 to 960 MHz";

By revising in paragraph (e)(3)(iii)(B) the phrase "10 W" to read "25 W";

By revising paragraph (e)(6) as set forth below;

By revising in Tehnical Note 2 paragraph (a) the word "or" after the semicolon to read *"or"*;

By adding in paragraph (d)(4) in (Advisory) Note 3 for the People's Republic of China quotation marks around the phrase "frequency agility"; as follows:

1531A "Frequency synthesizers" (and equipment containing such "frequency synthesizers").

* * * * *

List of "Frequency Synthesizers" Controlled by ECCN 1531A

* * * * *

(e) * * *

(6) "Frequency synthesizers" designed for equipment described in this paragraph, whether supplied separately or with the said equipment, exceeding the parameters specified in (b) above; *except those specially designed for*

radio telephones freed from control under paragraph (e)(3)(iii) above.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

17. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1533A is amended:

By revising the ECCN heading;

By adding a Note immediately following the heading;

By revising the "Reason for Control" paragraph under the heading "Controls for ECCN 1533A";

By revising the heading the list of radio spectrum analyzers controlled by ECCN 1533A;

By revising the technical note;

By removing Notes 1, 2, 3, 4, and Advisory Notes 5 and 6;

By removing the technical note following Advisory Note 5;

By adding new Notes 1, 2, and 3; as follows:

1533A "Signal analyzers" (including spectrum analyzers) and network analyzers, as follows, and specially designed components and accessories therefor.

Note: For 'specially designed software', see Supp. 3 to part 779.

Controls for ECCN 1533A

* * * * *

Reason for Control: National security and foreign policy. Foreign policy controls apply for nuclear weapons delivery purposes to commodities described in paragraph (b) under the List below for launch and ground support equipment usable for complete rocket systems and unmanned air vehicle systems described in § 776.18(a).

* * * * *

List of Equipment Controlled by ECCN 1533A

(a) "Signal analyzers" having any of the following characteristics:

(1) Capable of analyzing frequencies exceeding 18 GHz;

(2) Capable of analyzing frequencies exceeding 2.3 GHz with a "frequency span" of more than 2.3 GHz; *or*

(3) Using time compression of the input signal;

(b) "Dynamic signal analyzers", *except when having a "real-time bandwidth" less than 5.12 kHz;*

(c) Swept frequency network analyzers for the automatic measurement of complex equivalent circuit parameters over a range of frequencies and having a maximum operating frequency exceeding 1.0 GHz; *or*

Note: This does not include equipment for continuous wave, point-to-point measurement.

(d) Scalar network analyzers having a maximum operating frequency exceeding 2.3 GHz.

Technical Note: Definition of terms used in this ECCN 1533A:

1. *"Signal analyzers."* Apparatus capable of measuring and displaying basic properties of the single-frequency components of multi-frequency signals.

2. *"Dynamic signal analyzers."* "Signal analyzers" that use digital sampling and transformation techniques to form a Fourier spectrum display of the given waveform including amplitude and phase information.

3. *"Real-time bandwith."* For "dynamic signal analyzers" is the widest frequency range that the analyzer can output to display or mass storage without causing any discontinuity in the analysis of the input data. For analyzers with more than one channel, the channel configuration yielding the widest "real-time bandwidth" shall be used to make the calculation.

4. *"Frequency span."* The maximum range of the frequency segment displayed.

Note 1: This ECCN does not control:

(a) Optical spectrum analyzers such as:

(1) Prism or grating monochrometers;

(2) Optical interferometers;

(3) Optical spectrometers;

(b) Equipment only using constant percentage bandwidth filters (also known as octave or fractional octave filters);

(c) Medical equipment containing, as an integral part, "signal analyzers".

Note 2: If the "signal analyzer" is a plug-in-module for oscilloscopes, see ECCN 1548A for controls on the associated "mainframe".

Note 3: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of "dynamic signal analyzers" controlled by paragraph (b) above provided they:

(a) Have no zoom capability; *and*

(b) Cannot compute 512 real spectral lines in less than 50 ms.

Supplement No. 1 to § 799.1 [Amended]

18. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1537A is amended:

By revising in the undesignated paragraph immediately following the heading "List of Equipment Controlled by ECCN 1537A" the reference *"1520A, 1526A(a), 1529A"* to read *"1520A and 1529A";*

By revising in paragraphs (e)(2) and (e)(3) the phrase *"frequency over the range"* to read *"frequency in the range";*

By revising in paragraph (f) the phrase *"302 °F (150° C)"* to read *"423K (150 °C)";*

By removing in paragraph (g) the phrase "but not limited to" immediately following the word "including";

By revising in paragraph (j) the word "greater" to read "more";

By removing in paragraphs (k)(1) and (k)(2) the phrase "They are" and revising the word "specially" to read "Specially";

By removing Advisory Notes 1, 2 (Advisory) Note 7 for the People's Republic of China and the Note immediately following (Advisory) Note 7;

By redesignating Advisory Notes 3, 4, 5 and (Advisory) Note 6 for the People's Republic of China to read Advisory Notes 1, 2, 3 and (Advisory) Note 4 for the People's Republic of China;

By revising newly designated (Advisory) Note 4 for the People's Republic of China as set forth below; as follows:

1537A Microwave, including millimetric wave, equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz (other than microwave equipment controlled for export by ECCNs 1501A, 1517A, 1520A, or 1529A).

* * * * *

(Advisory) Note 4 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of:

(a) Microwave equipment controlled for export by paragraphs (a), (b) or (c) of this ECCN 1537A, when designed for use at frequencies not exceeding 40 GHz and when specially designed for use with conventional commercial instruments described in ECCNs 1529A, 1531A or 1533A, provided that the equipment does not in any way extend the frequency range of the basic instrument;

(b) PIN modulators controlled by paragraph (l) above, designed for use at frequencies not exceeding 10.5 GHz.

Supplement No. 1 to § 799.1 [Amended]

19. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1549A is amended:

By revising paragraph (a) and (b);

By removing paragraph (d) and the parenthetical reference following paragraph (d);

By removing Advisory Note 1 and Note 2;

By adding two parenthetical references at end of the entry; as follows:

1549A Photomultiplier tubes.

* * * * *

List of Photomultiplier Tubes Controlled by 1549A

Photomultiplier tubes of the following description: (a) They are solar blind types for which the long wavelength cutoff is below 350 nm, where the long wavelength cutoff is defined as 10% of the maximum sensitivity;

Note: Photomultiplier tubes specially designed for use in spectrophotometry having a peak sensitivity at a wavelength shorter than 300 nm are not controlled by this paragraph.

(b) An anode pulse rise time of less than 1 ns; *or*

* * * * *

(For photosensitive components, see ECCN 1548A.)

(For microchannel plate electron multipliers, see ECCN 1556A.)

Supplement No. 1 to § 799.1 [Amended]

20. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1555A is amended:

By revising the heading "List of Electron Tubes Controlled by ECCN 1555A" and introductory text immediately following the heading;

By revising paragraphs (a) and (b);

By removing paragraph (c);

By revising Note 1 as set forth below;

By removing Advisory Notes 3 and 4;

By revising the heading "Advisory Note for the People's Republic of China" as "(Advisory) Note 3 for the People's Republic of China:";

By revising in newly designated (Advisory) Note 3 for the People's Republic of China paragraph (b) as set forth below; as follows:

1555A Electron tubes and specially designed components therefor.

* * * * *

List of Equipment Controlled by ECCN 1555A

Electron tubes, as follows, and specially designed components therefor:

(a) Electron tubes for image conversion or intensification, including those designed for streak or framing cameras, incorporating:

(1) Microchannel-plate electron multipliers; *or*

(2) Semi-transparent photocathodes incorporating epitaxially grown layers of compound semiconductors, such as gallium arsenide;

(b) Electron tubes for television or video cameras, having any of the following characteristics:

(1) Incorporating microchannel-plate electron multipliers;

(2) Coupled with electron tubes covered by paragraph (a) of this ECCN;

(3) Ruggedized and having a maximum length-to-bulb diameter ratio of 5:1 or less.

* * * * *

Note 1: This ECCN does not control commercial standard X-ray amplifier tubes.

* * * * *

(Advisory) Note 3 for the People's Republic of China:

* * * * *

(a) * * *

(b) Television and video camera tubes that incorporate microchannel-plate electron multipliers not controlled by ECCN 1556A.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

21. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1558A is amended:

By revising the heading for the list of controlled equipment as set forth below;

By revising in paragraph (a)(1)(ii) the phrase "(expressed in watts)" to read "(expressed in kW)" both places it appears and the phrase "10^4" to read "10" and the phrase "2×10^4" to read "20";

By adding in paragraph (a)(2)(i) the phrase "greater than 45kW" immediately following the word "power";

By revising in paragraph (a)(2)(ii) the phrase "(expressed in watts)" to read "(expressed in kW)" and the phrase "4.5×10^4" to read "45";

By revising (c)(1)(ii) as set forth below;

By removing paragraph (c)(1)(iii);

By redesignating paragraphs (c)(1)(iv), (c)(1)(v) and (c)(1)(vi) as paragraphs (c)(1)(iii), (c)(1)(iv) and (c)(1)(v);

By revising newly designated paragraph (c)(1)(iv) as set forth below;

By revising paragraph (c)(3) as set forth below;

By revising in paragraph (e) the phrase "including but not limited to gyrotrons, ubitrons, and peniotrons;" to read "including gyrotrons, ubitrons and peniotrons *except gyrotron oscillators*";

By revising in paragraph (g) the phrase "200°C" to read "473K (200°C)";

By removing in paragraph (h) the word "*or*" after the semicolon; as follows:

1558A Electronic vacuum tubes (valves) and cathodes and other components specially designed for those tubes.

* * * * *

List of Electronic Vacuum Tubes (Valves) and Cathodes, as Follows, and Other Components Specially Designed for Those Tubes Controlled by ECCN 1558A

(c) * * *

(1) * * *

(i) * * *

(ii) Instantaneous bandwidth tubes with any of the following sets of characteristics:

(A) Tubes with:

(1) An instantaneous bandwidth of half an octave or less (i.e., the highest operating frequency does not exceed 1.5 times the lowest operating frequency); *and*

(2) The product of the rated output power (expressed in kW) and the maximum operating frequency (expressed in GHz) does not exceed 0.3;

(B) Tubes that:

(1) Have an instantaneous bandwidth of 10% or less (i.e., the highest operating frequency does not exceed 1.1 times the lowest operating frequency);

(2) The product of the rated output power (expressed in kW) and the maximum operating frequency (expressed in GHz) does not exceed 3; and

(3) Operate in standard international telecommunications bands; or

(C) Tubes that:

(1) Have an instantaneous bandwidth of 3% or less (i.e., the highest operating frequency does not exceed 1.03 times the lowest operating frequency);

(2) The product of the rated output power (expressed in kW) and the maximum operating frequency (expressed in GHz) does not exceed 25; and

(3) Operate in standard international telecommunications bands;

(iii) * * *

(iv) No multiple grid, including shadow grid, electron guns; and

(v) * * *

* * * * *

(3) Fixed frequency pulsed tubes, as follows:

(i) For civil applications;

(ii) Operating at frequencies below 3.5 GHz;

(iii) Having a peak output power of 1.6 Mw or less; *and*

(iv) Having an operating bandwidth of less than 1%;

* * * * *

Supplement No. 1 to § 799.1 [Amended]

22. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1574A is amended:

By revising the ECCN heading;

By revising the heading and the list of controlled equipment;

By adding a Note at the end of the list;

By revising Technical Notes 1 and 2; as follows:

1574A Electronic devices, circuits or systems containing components manufacturing from "superconductive" materials.

* * * * *

List of Equipment Controlled by ECCN 1574A

Electronic devices, circuits or systems containing components manufactured from "superconductive" materials, as follows: (a) Specially designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents; *and*

(b) Performing functions such as:

(1) Electromagnetic sensing and amplification;

(2) Current switching;

(3) Frequency selection; *or*

(4) Electromagnetic energy storage at resonant frequencies above 1 MHz.

Note: This ECCN includes Josephson-effect devices and superconducting quantum interference devices (squids).

Technical Notes: 1. "Superconductive." Materials (i.e., metals, alloys or compounds) that can lose all electrical resistance (i.e., that can attain infinite electrical conductivity and carry very large electrical currents without Joule heating).

Note: The "superconductive" state of a material is individually characterized by a "critical temperature", a critical magnetic field, which is the function of temperature, and a critical current density, which is a function of both magnetic field and temperature.

2. "Critical temperature" (sometimes referred to as the transition temperature) of a specific "superconductive" material. The temperature at which the material loses all resistance to the flow of direct current.

Supplement No. 1 to § 799.1 [Amended]

23. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1584A is amended:

By revising the ECCN heading;

By adding a new Note immediately following the ECCN heading;

By revising the heading for the list of controlled equipment;

By revising paragraphs (a) and (b) as set forth below:

By removing Notes 1 and 2;

By adding Technical Notes 1 and 2 as set forth below;

By revising the heading for the Advisory Note for the People's Republic of China and adding paragraph (g) as set forth below; as follows:

1584A Oscilloscopes, transient recorders and plug-in modules, as follows, and specially designed components, including amplifiers, preamplifiers and sampling devices therefor.

Note: Oscilloscopes may also be referred to as waveform recorders or waveform digitizers.

* * * * *

List of Equipment Controlled by ECCN 1584A

(a) Analogue oscilloscopes or plug-in modules having any of the following characteristics:

(1) Non-modular oscilloscopes having a "bandwidth" exceeding 250 MHz;

(2) Modular oscilloscope systems having either of the following:

(i) "Mainframes" with a "bandwidth" exceeding 250 MHz; *or*

(ii) Plug-in modules with an individual "bandwidth" exceeding 400 MHz;

(3) Having a horizontal sweep speed faster than 1 ns per cm with an accuracy (linearity) better (less) than 2% measured over a 1 ns time interval; *or*

(4) Containing or designed for use with cathode-ray tubes controlled by ECCN 1541A(c);

(b) Digital oscilloscopes or transient recorders with either of the following characteristics:

(1) A digitizing rate exceeding 50 million samples per second for measurement of single-shot phenomena; *or*

(2) A "bandwidth" exceeding 4 GHz for measurement of recurring phenomena;

Technical Notes: Definition of terms for the purpose of this ECCN 1584A.

1. *"Bandwidth".* The band of frequencies over which the displayed signal does not fall by more than 3 dB (i.e., below 70.7%) of that at the maximum point measured with a constant input voltage.

2. *"Mainframes".* Equipment that includes a display, power supply and means of accepting and utilizing the plug-in modules.

(Advisory) Note for the People's Republic of China: * * *

* * * * *

(g) Transient recorders, not capable of sampling single input signals at successive intervals of less than 10 ns.

Supplement No. 1 to § 799.1 [Amended]

24. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Insruments) ECCN 1585A is amended:

By revising the ECCN's heading as set forth below;

By adding two Notes immediately following the heading as set forth below;

By revising the heading for the list of controlled equipment;

By revising the introductory text of paragraph (a);

By removing in paragraph (a)(1) the word *"and"* after the semicolon;

By adding in paragraph (a)(2) the phrase "exceeding the limits in paragraph (a)(1) above" immediately following the phrase "frames per second";

By revising in paragraph (b) the phrase "High speed" to read mechanical high speed";

By revising paragraph (c);

By revising in paragraph (d) the phrase "Steak cameras" to read "Mechanical or electronic streak cameras";

By removing in paragraph (d) the phrase ", and specially designed parts and accessories therefor";

By redesignating paragraph (e) as paragraph (h);

By adding a new paragraph (e) as set forth below;

By redesignating paragraph (f) as paragraph (i) and revising it;

By revising paragraph (g);

By adding new paragraphs (f) and (j);

By adding and reserving Notes 1 and 2 and adding (Advisory) Note 3;

By revising the heading "Advisory Note for the People's Republic of China:" to read "(Advisory) Note 4 for the People's Republic of China:"; as follows:

1585A Cameras, components and photographic recording media.

Note: For cameras operating at below 190 nm (ultra-violet) or above 1,200 nm (infrared), see ECCN 1502A.

Note: For cameras specially designed or modified for underwater use, see ECCN 1417A.

List of Equipment Controlled by ECCN 1585A

Cameras, components and photographic recording media therefor, as follows: (a) High speed cinema recording cameras and equipment as follows: * * *

(b) * * *

(c) Cameras incorporating electron tubes controlled by ECCN 1555A, *except television or video cameras specially designed for television broadcasting use;*

(d) * * *

(e) Electronic framing cameras having a speed exceeding 10^6 frames per second;

(f) Video cameras incorporating solid state sensors, having any of the following characteristics:

(1) More than 4×10^6 "active pixels" per solid state array for monochrome (black and white) cameras;

(2) More than 4×10^6 "active pixels" per solid state array for color cameras incorporating three solid state arrays; *or*

(3) More than 12×10^6 "active pixels" for solid state array color cameras incorporating one solid state array;

Note: The camera output in each case is thereby limited to 4×10^6 resolvable elements excluding color information.

Technical Note: Definition of terms used in this ECCN 1585A

"Active pixels." A minimum element of the solid state array (sensor) that has a

photoelectric transfer function and that is exposed to the light.

(g) Electronic cameras having both of the following characteristics: (1) An electronic shutter speed (gating capability) of less than 10 microseconds per full frame; *and*

(2) A read out time allowing a framing rate of more than 400 full frames per second;

(h) * * *

(i) Film, as follows: (1) Having a speed of ISO 10,000 (or its equivalent) or better;

(2) Color film having a spectral sensitivity extending beyond 7,200 Angstroms or below 2,000 Angstroms;

(j) Cameras incorporating: (1) Linear detector arrays exceeding a size of 4,096 elements per array; *and*

(2) Mechanical scanning in one direction.

Note 1: [Reserved]

Note 2: [Reserved]

(Advisory) Note 3: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of cameras controlled only by paragraph (j) above provided:

(a) They are intended for civil end-users and civil end-users; *and*

(b) They do not contain linear detector arrays exceeding a size of 8,192 elements per array.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

25. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments) ECCN 1587A is amended:

By revising in paragraph (a)(2) the phrase "three series" to read "four series";

By revising in paragraph (c)(1) the phrase "better than ±0.00015 percent over their operating temperature range" to read "better (less) than $\pm 1.0 \times 10^{-7}$ over an operating temperature range exceeding 70 °C";

By removing paragraph (c)(3);

By redesignating paragraphs (c)(4), (c)(5), and (c)(6) as paragraphs (c)(3), (c)(4), and (c)(5);

By redesignating old "Note 1" as new "Note 2" and old "Note 2" as new "Note 1";

By revising in paragraph (b) of new "Note 2" the phrase "45 kHz" to read "4 kHz".

Supplement No. 1 to § 799.1 [Amended]

26. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures) ECCN 1675A is amended:

By revising the ECCN heading;

By revising list of controlled items;

By revising the technical note;

By removing Advisory Note; as follows:

1675A "Superconductive" materials and composite conductors, as follows:

* * * * *

List of Items Controlled by ECCN 1675A

(a) "Superconductive" materials of all types:

(1) Having a "critical temperature", at zero magnetic induction, of 9.85K (−263.3 °C) or higher; *and*

(2) In quantities of more than 25 g;

(b) "Superconductive" niobium-titanium wire not embedded in a metallic matrix with a cross section area of less than 3.14×10^{-4} mm² (i.e., 20 micrometre diameter for circular filaments);

(c) Composite conductors containing at least one "superconductive" constituent having a "critical temperature", at zero magnetic induction, of 9.3K (−263.85 °C) or higher, *except those that:*

(1) *Have "superconductive" filaments embedded in a copper or copper-based mixture matrix; and*

(2) *Fulfill either of the two following sets of characteristics:*

(i) *The "superconductive" constituent or filament:*

(A) *Has a cross section area of more than 3.14×10^{-4} mm² i.e., 20 micrometre diameter for circular filaments;*

(B) *Is either non-coated or insulated with*

(1) Varnish;

(2) Glass fiber;

(3) Polyamide; or

(4) Polyimide; and

(C) *Does not remain in the "superconductive" state when:*

(1) Evaluated in sample lengths of less than 1 meter; and

(2) Exposed to a magnetic field with an induction of more than 12 tesla at a temperature of 4.2K (−268.95 °C); or

(ii) *The composite conductor contains:*

(A) *"Superconductive" niobium-titanium wire with a cross section area of more than 9.5×10^{-5} mm² i.e., 11 micrometer diameter for circular filaments; and*

(B) *A total mass, i.e., including the mass of the matrix, not exceeding 10 kg.*

Technical Notes: Definition of terms used in this ECCN 1675A

1. *"Superconductive"*. Materials (i.e. metals, alloys or compounds) that can lose all electrical resistance, i.e., that can attain infinite electrical conductivity and carry very large electrical currents without Joule heating.

Note: The "superconductive" state of a material is individually characterized by a "critical temperature", a critical magnetic field, which is a function of temperature, and a critical current density which is, however, a function of both magnetic field and temperature.

2. *"Critical temperature"*. "Critical temperature" (sometimes referred to as the transition temperature) of a specific "superconductive" material—the temperature at which the material loses all resistance to the flow of direct current.

Supplement No. 1 to § 799.1 [Amended]

27. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1733A is amended:

By revising the ECCN heading;

By revising the heading for the list of controlled items;

By removing the existing Technical Note;

By placing Notes 1, 2 and 3 immediately following paragraph (d)(3);

By adding new Technical Notes 1 and 2 immediately following Note 3; as follows:

1733A Base materials, non-"composite" ceramic materials, ceramic-ceramic "composite" materials and precursor materials, as follows, for the manufacture of high temperature fine technical ceramic products.

* * * * *

List of Base Materials, Non-"Composite" Ceramic Materials, Ceramic-Ceramic "Composite" Materials and Precursor Materials, as Follows, for the Manufacture of High Temperature Fine Technical Ceramic Products Controlled by ECCN 1733A.

* * * * *

Technical Notes: Definition of terms used in this ECCN 1733A

1. A "matrix" is defined as a substantially continuous phase that fills the space between particles, whiskers or fibers.

2. A "composite" is defined as a "matrix" and an additional phase or additional phases consisting of particles, whiskers, fibers or any combination thereof, present for a specific purpose or purposes.

Supplement No. 1 to § 799.1 [Amended]

28. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials) ECCN 1746A is amended:

By revising the ECCN heading as set forth below;

By revising the heading for the list of controlled commodities and by adding introductory text immediately following the heading as set forth below;

By revising paragraph (c) as set forth below:

By removing the Note immediately following paragraph (c);

By removing the Technical Note;

By removing the Note immediately following the Technical Note; as follows:

1746A Non-fluorinated polymeric substances and manufactures thereof, as described in this entry.

* * * * *

List of Non-Fluorinated Polymeric Substances and Manufactures Controlled by ECCN 1746A

Non-fluorinated polymeric substances, as follows, and manufactures thereof:

* * * * *

(c) Aromatic polyamides, including heterocyclic aromatic polyamides characterized as aromatic due to the presence of a benzene ring;

* * * * *

Supplement No. 1 to § 799.1 [Amended]

29. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials) ECCN 1754A is amended:

By revising introductory text of paragraph (a) as set forth below;

By revising paragraph (b)(2) as set forth below;

By revising in the paragraph (b)(5) the phrase "containing 10%" to read "containing 30%";

By adding paragraphs (b)(6) and (b)(7) as set forth below;

By adding in paragraph (c)(1) the phrase ", *except greases and lubricants made from poloyperfluoroalkylethers (See ECCN 1781(a))*" immediately preceding the word "above";

By revising in paragraph (c)(3) the phrase "(b)(2), specially" to read "(b)(2), (b)(5), (b)(6) or (b)(7) above, specially";

By adding paragraph (c)(5) as set forth below; as follows:

1754A Fluorinated compounds, materials and manufactures as described in this entry.

* * * * *

List of Fluorinated Compounds, Materials and Manufactures Controlled by ECCN 1754A

Fluorinated compounds, materials and manufactures, as follows: (a) Non-polymeric materials, as follows: * * *

(b) * * *

(1) * * *

(2) Fluoroelastomeric compounds of at least 95% of:

(i) A combination of two or more of the following monomers:

(A) Tetrafluoroethylene;

(B) Chlorotrifluoroethylene;

(C) Vinylidene fluoride;

(D) Hexafluropropylene;

(E) Bromotrifluoroethylene;

(F) Iodotrifluoroethylene;

(G) Perfluoromethylvinylether; *and*

(H) Perfluoropropoxypropylvinylether;

(ii) A copolymer of tetrafluoroethylene and propylene; *or*

(iii) A terpolymer of tetrafluoroethylene, vinylidene fluoride and propylene;

* * * * *

(6) Fluorinated polyimides, and hexafluoroacetone and other intermediates for their production, containing 30% or more of combined fluorine;

(7) Fluorinated phosphazene elastomers, and intermediates for their production, containing 30% or more of combined fluorine;

(c) * * *

(5) Reinforced tubing (including connectors and fittings for use with such tubing) incorporating coagulated dispersion grade of polytetrafluoroethylene, copolymers of tetrafluoroethylene and hexafluoropropylene, or any of the fluorocarbon materials controlled by paragraph (b)(2) above and designed for operating (working) pressures of 21 MPa (3,000 psi) more, whether or not specially processed to make the flow surfaces electrically conductive.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

30. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials) ECCN 1759A is amended:

By revising the ECCN heading;

By adding list of items controlled;

By adding a technical note;

By adding (Advisory) Notes 1 and 2; as follows:

1759A "Syntactic foam" for underwater use and microspheres.

Controls for ECCN 1759A

* * * * *

List of "Syntactic Foam" for Underwater Use and Microspheres, as follows, Controlled by ECCN 1759A

(a) "Syntactic foam" as follows:

(1) Designed for marine depths exceeding 1000 meters; *or*

(2) With a density less than 0.561 g/cm³ (35 lb/cu ft) *except that designed for use at marine depths less than 100 meters;*

(b) Hollow microspheres (microballoons), having all of the following characteristics, for use in "syntactic foam"

(1) Made from glass or plastic;

(2) A true particle density of more than 0.16 g/cm³ (10 lb/cu ft) and less than 0.41 g/cm³ (26 lb/cu ft);

(3) A bulk density of more than 0.088 g/cm³ (5.5 lb/cu ft) and less than 0.23 g/cm³ (14.4 lb/cu ft);

(4) A compressive strength more than 2.8 MPa (400 psi);

(5) A particle size range or 20 to 200 micrometre; *and*

(6) A floater content of at least 94% by volume.

Technical Note: Definition of Terms used in the ECCN 1759A1. "Syntactic foam" is defined as hollow spheres of plastic or glass embedded in a resin matrix.

(Advisory) Note 1: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of "syntactic foam" controlled by paragraph (a) above, provided it fulfills any of the following sets of conditions:

(a) The "syntactic foam" is:

(1) Designed for use at depths not exceeding 200 meters;

(2) To be used in manned autonomous underwater vehicles excepted from export control; *and*

(3) To be installed by the supplier;

(b) The "syntactic foam" is:

(1) Designed for use at depths not exceeding 300 meters; *and*

(2) Shaped or preshaped and to be used in civil offshore drilling or production equipment; *or*

(c) The "syntactic foam" is:

(1) Designed for use at depths not exceeding 300 meters;

(2) To be used in manned autonomous underwater vehicles excepted from export control; *and*

(3) To be installed by the supplier.

(Advisory) Note 2: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of microspheres controlled by paragraph (b) above, for civil uses other than underwater applications.

Supplement No. 1 to § 799.1 [Amended]

31. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum products and Related Materials) ECCN 1763A is amended:

By revising the ECCN heading;

By adding in paragraphs (a) and (b) quotation marks around the phrase "Fibrous and filamentary materials";

By removing in paragraph (a) the phrase ", *except* silicate glass fibers";

By adding in paragraph (b)(1) the word "*and*" immediately following the semicolon;

By adding in paragraph (d) quotation marks around the word "Composite ';

By adding paragraph (f) to Technical Note 1 as set forth below;

By adding in Technical Note 2 the phrase "pascals, equivalent to"

immediately following the phrase "Young's modulus in";

By removing in Technical Note 3 the phrase "and a relative humidity of (50±5)%";

By adding in Technical Note 4 quotation marks around the word "composite";

By adding Note 5 and (Advisory) Note 6 as set forth below; as follows:

1763A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates, and such "composite" structures and laminates and "specially designed software" therefor

* * * * *

Technical Notes:

1. * * *

* * * * *

(f) Aromatic polyamide pulp.

* * * * *

Notes: 1. to 4. * * *

5. This ECCN does not control manufactured articles where the value of the aromatic polyamide content controlled by paragraph (a) above, together with other controlled materials, is less than 50% of the total value of the material used.

(Advisory) Note 6: Licenses are likely to be approved for export to bona fide civil end-users for non-military, non-aerospace end-use in country Groups QWY for the shipment of polyethylene fiber controlled by paragraph (a) above.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

32. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids/, Petroleum products and Related Materials) ECCN 1781A is amended by revising paragraph (b) as set forth below:

1781A Synthetic lubricating oils and greases

* * * * *

List of the Principal Ingredients of Synthetic Lubricating Oils and Greases Controlled by ECCN 1781A

(a) * * *

(b) Phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than 2 ether or thio-ether functions or mixtures thereof.

Iain S. Baird,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-23559 Filed 10-2-89; 4:35 pm]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 31, 145, and 147

Leverage Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has amended its rules relating to leverage transactions to permit additional participation in the leverage business, as directed by Congress in section 19(c)(2) of the Commodity Exchange Act ("Act"). Futures Trading Act of 1986, Pub. L. No. 99-641, § 109, 100 Stat. 3556 (1986). The substance of the current regulatory framework has been retained. Most of the rule amendments and the few new rules are of a procedural nature and are designed to provide for a regulatory structure of direct supervision by a registered futures association under Commission oversight. Such a structure is consistent with the other regulatory programs administered by the Commission under the Commodity Exchange Act. The rule amendments and new rules have been adopted essentially as proposed, with certain minor change noted below.

Each leverage transaction merchant ("LTM") is required to be a member of a registered futures association, and a registered futures association with LTM members is required to adopt rules establishing minimum financial, cover, segregation and sales practice requirements, and related reporting requirements. With respect to each area, these rules must be at least as stringent as the Commission's standards set forth in Part 31 of the rules promulgated under the Act. Such a registered futures association also would be required to have an arbitration procedure to settle leverage customer claims or grievances. The Commission has separately approved such rules of the National Futures Association ("NFA"), the only registered futures association.

The Commission previously authorized NFA to perform the function of processing the registration of LTMs and associated persons ("APs") of LTMs. The Commission is now authorizing NFA to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any LTM or AP of an LTM, or an applicant for registration in either category, and to process a request for withdrawal from registration by an LTM.

LTMs must file monthly reports of leverage contract trading volume and pricing, and quarterly reports of closed-out leverage contracts, with NFA instead of with the Commission. NFA will prepare summaries of those reports for the Commission.

The specific exemption procedure currently set forth in Rule 31.24 has been deleted, and the provisions of exemptions previously granted under Rule 31.24 to the existing LTMs which are of general applicability have been incorporated into the rules as appropriate. The only major function with respect to leverage contracts for which the Commission retains sole authority is the registration of leverage commodities.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254-8955; David R. Merrill, Senior Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254-9880; or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone (202) 254-6990.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Notice

The annual public reporting burden for this collection of information is estimated to average 49 hours per LTM, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This includes the time necessary to maintain the various records and to prepare and file the appropriate reports required by the Part 31 rules promulgated under the Act. Of course, this burden will vary from firm to firm based on the number of leverage contracts offered and sold, the number of employees, the firm's financial condition and other factors. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581; and to Office of Management and Budget, Paperwork Reduction Project (3038-0029), Washington, DC 20503.

II. Background

The Commission published its proposed rule amendments with respect to leverage transactions and allowed sixty days for public comment thereon. 54 FR 3476 (January 24, 1989). The Commission received nine written comments on the proposals. The commenters included the U.S. Department of Justice, NFA, two registered LTMs (one of which submitted two written comments), three contract markets and a private attorney. The Commission has carefully considered each of the comments and has determined to adopt the rule amendments and new rules essentially as proposed, with certain minor changes noted below.

The Commission previously adopted rule amendments providing for the transfer to NFA of the function of processing the registration of LTMs and APs of LTMs. 54 FR 19556 (May 8, 1989). The Commission authorized NFA to perform this function effective May 15, 1989. 54 FR 19594 (May 8, 1989). The Commission is now amending Rule 3.33 regarding withdrawal from registration. The Commission also has issued an Order that authorizes NFA to process registration withdrawal requests made by LTMs, and authorizes NFA to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any LTM or AP of an LTM, or an applicant for registration in either category, which is published elsewhere in the "Notices" Section of this issue.

III. Rule Amendments and Comments Thereon

A. Moratoria Rules

The Commission proposed to delete Rules 31.1 and 31.2 (17 CFR 31.1 and 31.2 (1988)), which imposed moratoria on the entry of new firms into the leverage business unless a firm was so engaged on June 1, 1978 (with respect to leverage contracts involving gold and silver bullion and bulk coins) or February 2, 1979 (with respect to leverage contracts involving all other commodities upon which leverage contracts could have been offered at that time, *i.e.*, all but the agricultural commodities enumerated in the Act), respectively. Other provisions of the rules which related to the moratoria and their treatment of "grandfathered" firms, *i.e.*, those firms which were engaged in a leverage business on the dates specified in the moratoria rules, also were proposed to be deleted. These provisions include paragraphs (c), (d) and (e) of Rule 31.5 and paragraphs (a)(1) and (b)(1) of Rule 31.6, as well as Rule 31.22. The Commission intended by these proposals to conform the regulatory framework for an applicant for registration as an LTM or an AP of an LTM to the framework for any other applicant for registration. Such applicant would not be permitted to engage in business requiring registration until registration had been granted.

One commenter suggested that the Commission may wish to consider a gradual end to the moratoria, which the Act permits, particularly if there is uncertainty about the number of firms that would enter the leverage business. This commenter suggested that a higher capital requirement for LTMs could be imposed temporarily to accomplish a gradual end to the moratoria. The Commission has carefully considered this comment, but it has determined that changing the minimum adjusted net capital requirement is not appropriate at this time. Accordingly, the rule amendments referred to in the preceding paragraph relating to the moratoria and "grandfathered" firms have been adopted as proposed.

B. Status of Copper and Foreign Currency Leverage Contracts

The amendments to section 19 of the Commodity Exchange Act enacted by Congress in 1986 made it unlawful for any person to offer to enter into, to enter into, or to confirm the execution of, any leverage contract to or with a leverage customer involving any leverage commodity other than gold and silver bullion, bulk gold and silver coins and platinum. These amendments had the effect of prohibiting new leverage contracts involving copper, which had been offered by International Precious Metals Corporation ("IPMC"), and four foreign currencies (British pound, Deutsche mark, Japanese yen and Swiss franc), which had been offered by Monex International, Ltd. ("Monex"), on and after the date of enactment of the Futures Trading Act of 1986, November 10, 1986. Congress also provided that its ban on new copper and foreign currency leverage contracts did not affect any rights or obligations arising out of any leverage contract involving any of those commodities that was entered into prior to November 10, 1986. The Commission sent letters to IPMC and Monex in November 1986 to inform them of these amendments to the law and to remind them of their obligations to service leverage contracts involving copper and foreign currencies, respectively, entered into prior to November 10, 1986, including providing cover for such open contracts. The Commission proposed to codify the statutory provision and its November 1986 letter to IPMC and Monex in a new paragraph 31.5(c). The only commenter who addressed these proposed amendments favored them, and the Commission has adopted the amendments as proposed.

Because of the reference to November 10, 1986 in that provision, the Commission also proposed to make technical amendments to the introductory text of paragraph (a) and to paragraph (b) of Rule 31.5 to make clear that the current reference to the "effective date of this section" meant the *original* effective date of the section, April 13, 1984. *See also* Rules 31.13(b)(2) and 31.21. There were no comments on these technical amendments, and the Commission has adopted them as proposed.

Another proposed technical amendment to Rule 31.5 was the deletion of paragraph (g), which related to the denial, suspension or revocation of registration of an LTM or an AP of an LTM. The Commission adopted subpart C of part 3 of its rules, which applies to the denial, suspension or revocation of registration for all registrants, subsequent to the adoption of the leverage contract rules in 1984. Because of that and in light of the Commission's authorizing NFA to take adverse action with respect to LTMs and APs of LTMs as noted above, the Commission has deleted Rule 31.5(g).

C. Definitions

The Commission proposed to amend the definition of "leverage commodity" in Rule 31.4(g), which currently includes references to copper and four foreign currencies.[1] IPMC closed out its last copper leverage contract in November 1987, and Monex closed out its last foreign currency leverage contract in August 1988. The proposed amendment to the leverage commodity definition was intended to reflect the amendment to section 19 of the Act limiting the offer and sale of leverage contracts to those involving gold and silver bullion, bulk gold and silver coins and platinum. The Commission also indicated when it proposed these rule amendments that it had reviewed all of the other definitions in Rule 31.4 and believed that changes thereto were neither necessary nor appropriate.

One commenter addressed the definitions applicable to leverage transactions. This commenter approved the deletion of reference to copper and foreign currencies. However, this

[1] The Commission also proposed to delete the reference to leverage contracts on foreign currencies in Rule 31.25(b), which governs the treatment of carrying charges.

commenter would make certain further definitional changes and would generally eliminate the use of futures terminology with respect of leverage contracts, specifically referring to such terms as "long" and "repurchase." This commenter also recommended amending Rule 31.4(t) which defines leverage account equity. The commenter believes that the definition should be amended so that leverage contract equity is based on the cash price series the LTM must designate as a benchmark for use by leverage customers in determining the value of each leverage commodity, rather than relying on the LTM's bid and ask price in computing the value of long and short leverage contracts as the rule currently requires. The purpose of the cash price series is to assist a leverage customer in comparing the LTM's prices to those in normal cash market channels. However, the value of any leverage contract is determined solely by the prices established by the LTM, and the Commission therefore believes it is appropriate to maintain the definition of leverage account equity solely in terms of the LTM's prices. The Commission has carefully considered these comments, has again reviewed the definitions in Rule 31.4, and has determined to adopt the amendment to Rule 31.4 as proposed.

D. Leverage Commodity Registration

The Commission, as proposed, has retained for itself the function of processing applications for and granting leverage commodity registration under Rule 31.6. This is the only function which the Commission has reserved completely to itself at this time. However, the Commission also indicated when it proposed these rule amendments that as experience is gained and leverage commodity registration becomes more standardized, it would consider amending the rules to authorize NFA to register leverage commodities.

The Commission also proposed to add a new paragraph (a)(6) to Rule 31.6 which would provide an additional condition for leverage commodity registration. This additional condition would be that the leverage contracts based on the leverage commodity do not include substantial characteristics of other interests such as options, certificates of deposit or other regulated instruments. The Commission required an extended period of time to resolve two leverage commodity registration applications, which were subsequently withdrawn, because the leverage contracts contained an option component.

One commenter supported the Commission's proposal in this area. Another commenter opposed this proposal, arguing that "there is nothing in the history of the Act that even implies that a leverage contract may not have elements of another commodity interest." This commenter also stated that "if a leverage contract is submitted to the CFTC for approval which contains an option component, the Commission should judge that submission on its compliance with the Commission's leverage and option rules." A third commenter disputed the implication that the Commission has the legal authority to permit off-exchange trading of hybrid leverage commodities. This commenter further stated that if the Commission were granted legal authority to consider such applications, the prevailing requirements for contract market designation should be used to evaluate such applications.

The Commission has carefully considered these comments and has determined to add a new paragraph (a)(6) to Rule 31.6 as proposed. As the Commission noted when it proposed the ban on leverage contracts with substantial characteristics of other interests such as options, certificates of deposit or other regulated instruments, such instruments may be extremely complex and may raise additional issues regarding customer protection. Moreover, such hybrid leverage instruments are not readily included under the present regulatory program, and may raise other legal issues.

As noted above, the cross-references to current Rule 31.5(c) "grandfathered" LTMs have been deleted from paragraphs (a)(1) and (b)(1) of Rule 31.6. No leverage commodity registration will be granted to a person that is not a registered LTM. The Commission will endeavor to coordinate with NFA so that the first leverage commodity registration will be granted simultaneously with the granting of registration as an LTM.[2]

One commenter recommended that all leverage commodity registration applications be published in the **Federal Register** for comment. The Commission has not previously done this with leverage commodity registration applications and does not believe that such a requirement is warranted.

This commenter made another point with respect to Rule 31.6 which was not raised in the Commission's proposed rule amendments but was discussed in the Commission's November 1988 report to Congress on leverage transactions, which was mandated by the Futures Trading Act of 1986. The issue is whether leverage contracts should be subject to an economic purpose test. The commenter pointed out that the Commission stated on page 18 of its report to Congress "that an 'economic purpose' test is not included *in the Act* as a condition for leverage commodity registration." [Emphasis by the commenter.] The commenter expressed strenuous disagreement with that statement if it was meant to imply that the Commission lacks the authority to impose an economic purpose test for leverage contracts by rule. The commenter stated that Congress' request for findings and recommendations as to whether leverage contracts serve an economic purpose in the mandated report referred to above indicates Congress expected that question to be addressed in the rules relating to leverage transactions.

The commenter also raised the issue of regulatory parity, arguing that if an economic purpose test is necessary for either futures or leverage contracts, it is only fair to impose such a test on both types of contracts. This could be done, according to the commenter, by adding a new provision to Rule 31.6(a), or by interpreting Rule 31.6(a)(5) to require leverage contracts to meet an economic purpose test. The commenter pointed out that Rule 31.6(a)(5) currently requires that leverage contract terms and conditions not be contrary to the public interest, which tracks the language of section 5(g) of the Act, the basis for the economic purpose test for futures contracts. Conversely, the commenter stated that if the Commission is prepared to allow the market to determine whether leverage contracts serve an economic purpose, fairness demands that contract markets be afforded the same freedom for a new futures contract and not be subjected to meeting the economic purpose test before designation is granted. The commenter stated that this could be done by deleting the economic purpose test from the Commission's Guideline No. 1 concerning economic and public interest requirements for contract market designations.

The Commission has carefully reviewed the comments with respect to whether leverage contracts should be subject to an economic purpose test. The Commission believes that it has thoroughly addressed that issue in pages 16–21 of the mandated report to Congress referred to above. The Commission notes that the regulatory framework for leverage transactions has

[2] The current fee for processing a leverage commodity registration application is $4,500.

never included an economic purpose test. The Commission further notes that during each of its previous reauthorizations by Congress, the issue of leverage transactions has been discussed extensively and Congress has enacted statutory changes regarding leverage transactions on each occasion. However, Congress has never mandated that leverage contracts be subject to an economic purpose test. It is well established that when Congress revisits a statute giving rise to a longstanding agency interpretation without pertinent change, the failure to repeal or revise the interpretation, or to mandate an alternative requirement, is persuasive evidence that the agency interpretation is the one intended by Congress. *See Commodity Futures Trading Commission* v. *Schor*, 478 U.S. 833, 846 (1986).

Congress did state that revised leverage transaction rules shall provide for permitting additional persons to engage in such transactions, which these rules do, and may authorize or require, notwithstanding any other provision of law, a futures association registered under the Act to perform such responsibilities in connection with such transactions as the Commission may specify, which these rules and related orders also accomplish.[3] The only other references in section 19 of the Act to the Commission's rules relating to leverage transactions are the general provisions contained in the Act prior to the 1986 amendments, *i.e.*, the rules should be designed to ensure the financial solvency of leverage transactions and prevent manipulation or fraud, such rules can be adopted only after notice and opportunity for hearing, and the Commission may set different terms and conditions for transactions involving different commodities. The Commission has responded by repealing the moratoria on the entry of new firms into the leverage business, providing for a structure of direct self-regulation by a registered futures association under Commission oversight in all areas other than leverage commodity registration, and otherwise generally maintaining the regulatory structure currently in place. The Commission further notes that it transmitted the mandated report on leverage transactions to Congress in November 1988 as required and that the report contained the aforementioned discussion of economic purpose and the amendments to the leverage transaction rules and certain new rules as they were subsequently proposed. There was no rule amendment or new rule contained in that report that would subject leverage contracts to an economic purpose test. The Commission received no comment from Congress on the issue. Accordingly, the Commission believes that it is appropriate to maintain the rules relating to leverage contracts without an economic purpose test for leverage contracts.[4]

E. Financial Early Warning System

The Commission, as proposed, has amended Rule 31.7(c) to delete the exception that persons who have applied for registration as LTMs are not required to send early warning notices to NFA. Such applicants must send such notices to NFA since NFA, and not the Commission, will be processing applications for registration as an LTM. However, an LTM or an applicant for registration as an LTM must file financial early warning notices with the Commission also. Futures commission merchants ("FCMs") and introducing brokers ("IBs"), and applicants for registration in either category, must do so under Rule 1.12 (17 CFR 1.12 (1988)), the relevant provisions of which are incorporated by reference in Rule 31.7(c). Paragraphs (a) and (b) of Rule 31.7 already contain references to the capital, cover and segregation rules of a designated self-regulatory organization ("DSRO"), and these provisions will become operative under the Commission's regulatory framework for an expanded leverage business which is set forth herein. The Commission received no comments on this aspect of its proposals.

F. Cover and Segregation of Customer Funds

The Commission proposed to maintain the basic cover requirements as they exist under the current rules. Under these requirements, at least 90 percent of the amount of physical commodities subject to open long leverage contracts and, separately, at least 90 percent of the amount of physical commodities subject to open short leverage contracts, must be covered by the LTM. In addition, at least 25 percent of the amount of physical commodities subject to open long leverage contracts must be covered with physicals. Such physical cover may be subject to a loan not exceeding 70 percent of current market value.

One commenter asserted that cover is too lenient in the current rules, and stated that only unencumbered warehouse receipts should be allowed as good cover. This commenter also objected to the current rules permitting metal ingots to be treated as good cover for leverage contracts involving coins. The commenter further stated that LTMs should be required to maintain 100 percent cover rather that 90 percent, arguing that a high net capital requirement is not very effective without requiring full cover by an LTM and a stricter definition of what constitutes good cover. The Commission has carefully considered the basic cover requirement in light of these comments and its experience administering these rules, and has determined to maintain the basic cover requirements as currently in effect.

The Commission remains concerned about cover being held outside of the United States, and therefore, as indicated in the **Federal Register** release proposing these amendments, it will retain the requirement that permissible cover consisting of futures contracts or commodity options be limited to those futures contracts or commodity options which are traded on or subject to the rules of a contract market.[5] Although the Commission has adopted rules to govern foreign futures and option transactions (52 FR 28980 (August 5, 1987), most of which are codified at 17 CFR Part 30 (1988)), foreign futures or foreign options do *not* constitute permissible cover for leverage contracts and the Commission has not amended Rule 31.8 in that area. No comments were received on this issue.

The Commission proposed three substantive amendments to its cover requirements to incorporate the provisions of exemptions granted to the current LTMs. The first proposal was to amend Rule 31.8(a)(2)(ii) to provide that permissible cover could also include one type of bulk gold coins for leverage contracts involving another type of bulk gold coins on an ounce-for-ounce basis if each type of bulk gold coins used as cover is the subject of a leverage contract offered by the LTM. Similar treatment also would be allowed for different types of bulk silver coins. The commenter that asserted cover is too lenient in the current rules also opposed the Commission's proposals to codify

[3] Congress also provided that the Commission may require that permission for additional persons to engage in the leverage business be given on a gradual basis so as not to place an undue burden on the Commission's resources. As discussed above, the Commission has not adopted any formal mechanism in this regard. We note, however, that the administration of any registration system normally results in certain applicants being granted registration before others.

[4] The Commission does not express an opinion as to whether it could adopt such a rule under the broad rulemaking authority of section 19 of the Act.

[5] *See also* Rule 31.12(a)(2) (17 CFR 31.12 (a)(2) (1988)), which requires leverage customer funds to be kept in the United States.

the previously-granted exemptions with respect to cover. The Commission has carefully considered this comment and has determined to adopt the amendment to Rule 31.8(a)(2)(ii) as proposed. As noted above, this is consistent with current Commission policy as set forth in exemptions granted to the current LTMs. Further, the Commission's cover rules currently permit bullion to be used as cover for leverage contracts involving bulk coins and vice versa (which, as indicated above, the commenter also opposes). Since the bulk coins are valued based upon their metallic content rather than their numismatic value, the Commission believes that it is appropriate to allow some fungibility between bullion and bulk coins for cover purposes.

The Commission also proposed to codify two other exemptions which have been granted with respect to permissible physical cover for long leverage contracts. One of these additional forms of permissible physical cover of a long leverage contract is the purchase of the leverage commodity subject to the leverage contract under a two-day settlement procedure, which is the normal cash market procedure. The LTM is considered covered from the time the purchase order is confirmed, even though the LTM does not get possession or control of a warehouse receipt until settlement on the second following business day. Such a purchase could not be made from an affiliated firm of the LTM. As noted above, one commenter opposed codification of this previously-granted exemption. One commenter supported the Commission's proposal in this area and suggested that it be extended to the rules regarding segregation of customer funds. This commenter urged that the rules be amended to provide that an LTM may sell metal or coins from the pool of segregated assets and be able to count the receivable from its counterparty to the sale as a good asset for segregated funds purposes while it is awaiting transfer of the proceeds of the sale from the counterparty.

The Commission has carefully considered these comments and has determined to codify the previously-granted exemption to the cover rules as proposed but not to extend similar treatment with respect to the rules relating to segregation of leverage customer funds. The Commission believes that this distinction is warranted because the cover requirements are intended in part to assure sufficient physical goods are available to satisfy customer demands for delivery (which generally arise in less than ten percent of purchased leverage contracts) and the segregation of funds rules are intended to assure that at every moment an LTM can satisfy its obligations to all of its customers. Therefore, while only 90 percent of leverage contracts by commodity volume must be covered (and only 25 percent of the total must be in physicals), 100 percent of segregation requirements must be maintained at all times. Further, permissible physical cover can include warehouse receipts encumbered up to 70 percent, but leverage customer funds can only be used to purchase warehouse receipts that are unencumbered. The Commission has maintained a somewhat stricter regulatory framework for treatment of leverage customer funds as compared to cover requirements, and the Commission believes that the codification of the exemption to allow purchases of metal or coins under a two-day settlement procedure to be considered good cover should not be extended to the rules regarding segregation of leverage customer funds.

The other additional form of permissible physical cover of a long leverage contract which the Commission proposed to allow is a long spot futures contract on the leverage commodity subject to the leverage contract, if the LTM has stopped a non-transferable delivery notice with respect to that futures contract and has otherwise complied with any procedures, including payment, necessary for taking delivery. If those conditions are met, the LTM would be considered to have covered his commitments to leverage customers with physical cover, even though the LTM does not have possession or control of a warehouse receipt for two business days. The Commission notes that simply holding a spot futures position is considered to be futures cover rather than physical cover, since the futures position could be liquidated by an offsetting transaction prior to the beginning of the delivery process. The Commission received no comments on this proposal, other than the comment referred to above which opposed codification of any of the exemptions related to cover, and the Commission has determined to adopt this amendment as proposed.

In the cases referred to in the three preceding paragraphs, the alternative forms of cover set forth in paragraph (a)(2)(ii) (bullion for coins and vice versa, as well as certain cross-coin cover) will be allowed, and the LTM must maintain records of the transactions subject to inspection, copying and audit by the Commission and a DSRO. The Commission, as proposed, has also limited the amount of cover which could consist of purchases under a two-day settlement procedure or spot futures contracts on which a delivery notice has been stopped to 10 percent of the LTM's obligations on long leverage contracts in each case. One commenter opposed these limits, stating that there could be market conditions that force an LTM to cover solely with physicals and that such conditions probably would coincide with heavy buying and/or selling by customers. The Commission has carefully considered this comment, but based upon its experience in administering the leverage transaction rules, it believes the limits adopted are appropriate.

As noted, the Commission has previously granted exemptions in these areas so these new provisions of the cover rule, Rule 31.8, are consistent with existing Commission policy. These codifications appear as new paragraphs (a)(2)(iii) and (a)(2)(iv) of Rule 31.8. The current paragraph (a)(2)(iii), which contains the permissible futures cover for long leverage contracts, has been redesignated as paragraph (a)(2)(v).

The Commission has also adopted, as proposed, two technical amendments to the cover rule. Paragraph (b) has been amended to provide that a DSRO can take action against a member LTM for not maintaining adequate cover in accordance with the DRSO's rules. Paragraph (e) has been amended to include a specific reference to Rule 31.28, which is the new rule that requires any self-regulatory organization with member LTMs to adopt and enforce minimum cover requirements for its member LTMs at least as stringent as those of the Commission.[6] No comments were received on these technical amendments.

C. Minimum Financial and Related Reporting Requirements

The only amendments which the Commission proposed to Rule 31.9, the minimum capital requirements for an LTM, are of a procedural nature. Paragraph (a)(2) of Rule 31.9 was proposed to be amended in a manner similar to the proposed amendment to Rule 31.8(e) discussed in the preceding paragraph. The amendment includes a specific reference to Rule 31.28, which is the new rule that requires any self-regulatory organization with member LTMs to adopt and enforce minimum

[6] A similar amendment has been adopted as a new Rule 31.12(h) regarding segregation rules of a self-regulatory organization. That is the only amendment of Rule 31.12.

financial requirements for its member LTMs that are at least as stringent as those of the Commission. Paragraph (a)(4) of Rule 31.9 was proposed to be amended in a manner similar to the amendment to Rule 31.8(b) discussed in the preceding paragraph. The amendment provides that a DSRO can take action against a member LTM for non-compliance with the DSRO's minimum financial requirements.

The third proposed amendment to Rule 31.9 would make paragraph (d) thereof conform to Rule 1.18 (17 CFR 1.18 (1988)), the comparable provision for FCMs. Rule 31.9(d) requires an LTM or an applicant therefor to make a formal monthly capital computation. That rule currently requires that the computation be made available for inspection by any representative of the Commission, the DSRO or the United States Department of Justice. The amendment maintains that required availability of the monthly capital computation for an LTM, but an applicant for registration as an LTM is required only to make its monthly capital computation available to any representative of NFA, which has been authorized to perform the processing of LTM registration applications. 54 FR 19556 and 54 FR 19594 (May 8, 1989). The Commission received no comments on these procedural amendments to Rule 31.9, and they have been adopted as proposed.

The Commission has determined to maintain the current $2.5 million minimum adjusted net capital requirement for an LTM. As the Commission noted when it adopted the rules relating to leverage transactions, "if an LTM were to join the existing registered futures association, the National Futures Association, or any other such association which may be established, the LTM's minimum financial requirement or its minimum cover requirement would not necessarily be lowered." 49 FR 5498, 5512 (February 13, 1984).

The Commission considered whether there should be an adjustment to the LTM capital requirement, but determined not to propose any such adjustment based on its regulatory experience and the off-exchange environment in which leverage contracts are traded. The Commission believes that any increase in supervision afforded by membership in a self-regulatory organization does not affect the reasons why the Commission set financial requirements for an LTM substantially higher than those for an FCM, which were stated as follows:

The leverage market is essentially a principals' market, and the purchaser of a leverage contract is solely dependent on the LTM for performance on the contract. Because leverage contracts are not traded on boards of trade designated as contract markets by the Commission, there is no clearing organization to take the other side of every trade, no FCM guarantee of variation margin to the clearing organization and no clearing organization guaranty fund and assessment power, nor is there any established secondary market for leverage contracts.

Because the LTM takes the other side of every leverage contract entered into by a leverage customer and because the LTM is the sole guarantor of performance on the leverage contract, an LTM may properly be viewed as comparable to the clearing organization of a contract market.[7]

The only comments received on the required minimum level of adjusted net capital for LTMs have been alluded to above. One commenter considers a tightening up of current cover requirements as more important than a high net capital requirement, but the commenter also stated that "if anything, the net capital requirement should be even higher." Another commenter suggested a higher net capital requirement temporarily as a means to provide for a gradual lifting of the moratoria. The Commission has carefully considered these comments, but it believes the required minimum amount of adjusted net capital for LTMs should be maintained at the current level based upon its experience in administering these rules.

The latter commenter referred to in the preceding paragraph also recommended that the Commission confirm that no LTM capital can be provided by affiliates. Otherwise, according to the commenter, the fundamental integrity of and the risk of doing business with an LTM would be misrepresented. The Commission notes that Rule 31.9(b)(10) currently incorporates by reference the provisions of Rule 1.17(f), which is the provision governing the treatment of assets and liabilities of subsidiaries or affiliates of FCMs and IBs. The Commission believes this parity of treatment should be maintained and has determined not to adopt the recommendation of the commenter which respect to LTM capital provided by affiliates.

The Commission further notes that Rule 31.9(b)(10) also incorporates by reference Rule 1.17(h) concerning subordinated debt. Rule 1.17(h)(vii) requires the approval of the Commission for prepayment of subordinated debt by an FCM or an IB. However, by means of a "no-action" letter issued on September 10, 1985, the Commission's Division of Trading and Markets permits such prepayment by an FCM or an IB upon approval of the DSRO only. [1984–1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,738. The Commission hereby confirms that similar treatment will be extended to LTMs with respect to prepayment of subordinated debt.

The amendments to the financial reporting requirements in Rule 31.13 are also of a procedural and conforming nature. As noted above, the reference in the introductory text of paragraph (a) as to where to file an application for registration as an LTM has been changed from the Commission to NFA. Paragraph (b)(2) has been amended to include a specific reference to Rule 31.28, for the same reasons that a similar amendment to Rules 31.9(a)(2) and 31.8(e) was adopted. Paragraph (c) has been amended to conform to a recent amendment to Rule 1.16, which is cross-referenced in Rule 31.13(c). *See* 53 FR 4606, 4612 (February 17, 1988).

Paragraph (g)(2) of Rule 31.13 has been amended to conform to a recent amendment to Rule 1.10(d)(2)(ii) to accommodate the recently issued Financial Accounting Standards Board Statement No. 95 which requires companies to file a statement of cash flows as part of a full set of financial statements in place of the statement of changes in financial position. *See* 53 FR 4606, 4609, 4611.[8] Various amendments have also been adopted to paragraphs (j), (k), (l), and (m) of Rule 31.13 to refer to NFA or the DSRO, as appropriate, in lieu of the Commission. Those

[7] 49 FR 5498, 5512. Congress has also recognized the need for a high net capital requirement for LTMs. Indeed, in proposing the 1982 amendments to Section 19 of the Act directing the Commission to promulgate regulations governing leverage transactions, which amendments were adopted by Congress essentially as proposed, Congressman Glickman stated: "I think the CFTC has to set regulatory standards and high net capital requirements to keep bad operators out of business." Excerpt from Unofficial Transcript of Mark-Up Session, Subcommittee on Conservation, Credit and Rural Development, House Committee on Agriculture, at 59, April 1, 1982, with the permission of Congressman Dan Glickman. *Id.* at n.32.

[8] Conforming amendments have also been made to Form 2–FR, the basic financial reporting form for LTMs, and to Rules 145.5(d)(1)(i)(H) and 147.3(b)(4)(i)(A)(*8*) so that the statement of cash flows will receive confidential treatment to the same extent as the statement of changes in financial position. Other minor, technical changes have been made to Form 2–FR to conform to certain of the rule amendments discussed herein. Due to the nature of those changes, and the fact that Form 2–FR does not appear in the Code of Federal Regulations, the amendments to Form 2–FR are not reproduced here. Anyone interested in further information on this aspect of the amendments should contact Mr. Patent at the telephone number listed above.

provisions relate to an LTM's choice of fiscal year, extensions of time to file financial reports, and the availability of financial reports. No comments were received with respect to Rule 31.13 and the amendments thereto have been adopted as proposed.

The Commission also wishes to note that since the revised Form 2–FR will have the Statement of Changes in Ownership Equity, which was previously required to be filed with interim financial reports and the year-end certified report, and the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors, which was previously only required to be filed with a certified year-end report, appearing on the same page, the Commission is requiring that the subordinated liabilities statement also be included with interim financial reports. *See* Rule 31.13(f)(3). This conforms the treatment of financial reports for LTMs with the treatment of financial reports for FCMs and IBs, Forms 1–FR–FCM and 1–FR–IB, respectively. 17 CFR 1.10(d)(1)(iii) (1988); *see also* 53 FR 4606, 4608.

H. Disclosure and Confirmation Statements

The Commission proposed certain minor, technical amendments to its disclosure requirements for an LTM, which are set forth in Rule 31.11, to take account of the fact that leverage contracts are now limited to those involving gold and silver bullion, bulk gold and silver coins, and platinum. The reference to foreign currencies in the first paragraph of the bold-faced risk disclosure statement has been deleted. The cross-reference to Rule 31.4(g) in Rule 31.11(a)(2)(ii) now refers to the revised Rule 31.4(g)(1)–(4). Paragraph (a)(2)(viii) has also been amended to delete the specific reference to metal or coins in the provision referring to the possible need for an inspection or assay at the customer's expense. The reference to metal or coins presumed that there would be other types of leverage commodities, such as foreign currencies. Since leverage contracts involving such other types of leverage commodities are now prohibited, a specific reference to metal or coins in Rule 31.11(a)(2)(viii) is unnecessary. The Commission also proposed to amend Rule 31.11(e) to require LTMs to file their Disclosure Documents with NFA for review. A copy of the Disclosure Document also must be filed with the Commission, but NFA will perform the review function. No comments were received with respect to these amendments to Rule 31.11, and they have been adopted as proposed.

The Commission proposed other amendments to Rule 31.11 intended to codify exemptions previously granted by the Commission. Rule 31.11(h) was proposed to be amended by adding a proviso that no notification to leverage customers is required if the LTM changes its carrying charge rate by less than one percent from the rate charged at the prior month-end and the new rate is made available to leverage customers by means of a toll-free telephone call and such availability is set forth in the LTM's Disclosure Document. Two commenters pointed out that the exemption granted by the Commission permits no direct notification to customers of carrying charge rate changes of one percent or less, and not only when such changes are less than one percent as the proposed amendment to Rule 31.11(h) stated. The Commission has reviewed this matter and has determined to modify its proposal so that LTMs need not notify leverage customers directly of carrying charge rate changes of one percent or less compared to the rate charged at the prior month-end provided the new rate is made available to leverage customers by means of a toll-free telephone call and such availability is set forth in the LTM's Disclosure Document. An LTM must also include notice of all interest rate changes in the monthly statement to leverage customers. *See* Rule 31.15(b)(4) (17 CFR 31.15(b)(4) (1988)).

The other amendments which the Commission proposed to Rule 31.11 are set forth in a new paragraph (m) and codify another exemption granted by the Commission. Rule 31.11(m) allows those LTMs which offer only long leverage contracts to delete various specific references to short leverage contracts in their Disclosure Documents that are otherwise required by Rule 31.11.[9] Rule 31.11(m)(2) provides that any LTM using a Disclosure Document that deletes or disregards references to short leverage contracts must file a new Disclosure Document meeting all of the requirements of Rule 31.11 at least 30 calendar days before it begins to offer any short leverage contract. No comments were received on Rule 31.11(m) and it has been adopted as proposed.

The Commission is also adopting two other amendments to Rule 31.11(k) regarding confirmation statements. These exemptions codify exemptions recently granted by the Commission in response to petitions received in August 1989, so the Commission obviously was unable to include these matters in its proposed rule amendments. None of the commenters on the proposals raised these issues. The first amendment relating to confirmation statements concerns the time within which such statements must be issued by LTMs. Rules 31.11 (k)(1) and (k)(2) have been amended to require an LTM to issue a confirmation statement within one business day after the entry into a leverage contract with a leverage customer, rather than within 24 hours. This change conforms the requirements for confirmation statements with respect to leverage contracts with similar rules for futures contracts and exchange-traded options. *See* 17 CFR 1.33(b) (1988).

The other amendment regarding confirmation statements relates to the notice regarding rescission rights which apply to a first-time leverage customer. Rules 31.11 (k)(1)(i) and (k)(2)(i) have been amended to require such a notice only in the confirmation statement with respect to a leverage customer's initial trade or trades. For purposes of identifying a leverage customer's right to rescind, the Commission considers all leverage contracts entered into by a leverage customer on the same day as the first contract to be included in the first transaction and therefore subject to rescission. 49 FR 5498, 5509 n.27 (February 13, 1984). The Commission, of course, has no objection if an LTM wishes to include the notice regarding rescission in all confirmation statements issued with respect to transactions other than the initial opening trade or trades. The Commission believes that the wording of the notice regarding rescission rights makes clear that such rights apply only to a first-time leverage customer. The Commission also wishes to emphasize that all LTMs have the burden of demonstrating that each first-time leverage customer has received the appropriate rescission notice.

I. Monthly Reports of LTMs

Rule 31.16 requires each LTM to file a written report each month stating the total number of open leverage contracts as of the end of the month and the total number of leverage contracts entered into during the month. (These are to be shown separately for all customers and for commercial interests, but to date no commercial interests have appeared in these reports.) The monthly report must also show the total number of leverage contracts repurchased, resold, and

[9] Of the forty-six affirmative respondents to the survey which Congress directed the Commission to conduct with the assistance of a registered futures association regarding interest in entering the leverage business, two respondents indicated that they would offer long leverage contracts only and ten others reported that they were undecided on the long leverage/short leverage issue.

liquidated by the LTM, as well as the number of deliveries and rescissions. The Commission proposed to amend Rule 31.16 to require the LTM to file its monthly reports with NFA instead of with the Commission, in accordance with the instructions and in the format specified by NFA. NFA would prepare summaries of these reports for the Commission.[10] Although one commenter opposed this, stating that the Commission should receive the full report from the LTM, the Commission has determined to adopt the amendment to Rule 31.16 as proposed and has directed NFA to prepare summaries of LTM monthly reports for the Commission.

J. Separate LTM Entity

The Commission, as proposed, has retained the substance of Rule 31.22, which prohibits an FCM from offering to enter into, entering into, or confirming the execution of, or soliciting or accepting orders for, any leverage contract, and has extended it to include IBs as well.[11] As noted above, the proviso to Rule 31.22 which applied to "grandfathered" firms has been deleted since it is no longer relevant.

Rule 31.22 therefore requires any FCM or IB seeking to enter the leverage business to set up a separate firm to conduct LTM business.[12] The Commission believes that a separate entity requirement is appropriate based on the disparate nature of the financial requirements applicable to FCMs and IBs and LTMs. The Commission also believes that this structure is necessary to prevent financial difficulties of the LTM from having a direct impact on the adjusted net capital of the FCM or the IB.

The Commission notes that Rules 3.12(f)(2) (ii) and (iii) and 3.18(f)(1) (ii) and (iii) prohibit an AP from being associated simultaneously with an FCM or IB and an LTM. The Commission further notes, however, that both Rules 3.12 and 3.18, in paragraph (g) of each rule, contain a procedure whereby any person adversely affected by the operation of each rule can file a petition for exemption from the requirements of the rule. The Commission has previously granted exemptions in this area to the two registered LTMs, each of whom has an affiliated FCM. One commenter would require an LTM to maintain a separate sales force from the FCM or IB. The commenter expressed concern that dual registration may lead to "switching hats" when dealing with a customer. The Commission has carefully reviewed this comment but it will still consider petitions under Rules 3.12 and 3.18 for dual association of APs of LTMs and FCMs or IBs and evaluate any such petitions on a case-by-case basis.

K. Petitions for Exemption

The Commission proposed to delete the specific petition for exemption provisions currently set forth in Rule 31.24. One commenter supported this proposal. Another commenter opposed the proposal, stating that such a petition procedure is available in other contexts such as foreign futures and options, dealer options and domestic exchange-traded options. This commenter further noted that if the number of LTMs increases and the metals markets become more active than they have been in the last five years, the need for a petition for exemption procedure may be greater than it has been under the current rules.

The Commission now has some experience with the rules relating to leverage transactions and, as noted throughout this document, has codified petitions for exemption already granted which are of general applicability. The Commission therefore does not believe that it would be necessary or appropriate to maintain the extremely time-consuming special exemption procedure for an expanded leverage business. The Commission would expect to see greater uniformity in an expanded leverage business than has been the case with the "grandfathered" firms. The Commission has therefore deleted Rule 31.24 as proposed. However, any person involved in the leverage business would have whatever petition rights are afforded by the Administrative Procedure Act.

L. Carrying Charges

The Commission proposed to amend Rule 31.25(b) regarding carrying charges to take into account another exemption granted by the Commission. The proposed amendment would permit the compounding of carrying charges on long leverage contracts, *i.e.*, including in the base upon which carrying charges are assessed previously assessed but unpaid carrying charges. If an LTM compounded carrying charges on long leverage contracts, it would be compelled to pay compound interest on short leverage contracts. One commenter opposed this proposed amendment and also made general comments that the rules relating to carrying charges are too vague. The Commission has carefully considered these comments and it has determined to adopt the amendment with respect to compounding of carrying charges as proposed, which codifies a previously granted exemption and is therefore consistent with current Commission policy. As noted above, Rule 31.25 has also been amended by deleting the reference to leverage contracts on foreign currencies.

M. Quarterly Reporting Requirement

Rule 31.26 provides that each LTM must file a quarterly report setting forth various information on each leverage contract which was either repurchased, resold or settled by delivery during the quarter, including, with respect to each contract repurchased or resold, the profit or loss incurred by the leverage customer.[13] The Commission proposed to amend Rule 31.26 to require an LTM to file its quarterly report with NFA instead of with the Commission, in accordance with the instructions and in the format specified by NFA. NFA would be delegated the function to review and analyze those reports.[14] The commenter who opposed the Commission's similar proposal with respect to Rule 31.16 concerning monthly reports also opposed the proposed amendment to Rule 31.26. The

[10] As in the case of the amendments to Part 3 of the Commission's rules and other references to applications for LTM or AP of an LTM registration, there is a specific reference to NFA in Rule 31.16. The Commission believes that this is appropriate because the monthly report data should be centralized and maintained with a single custodian, even if multiple self-regulatory organizations for the leverage business are established.

[11] One IB responded affirmatively to the leverage survey.

[12] Twenty-one FCMs responded affirmatively to the leverage survey.

[13] The calculation of the profit or loss incurred on each closed-out leverage contract must include, among other things, the carrying charges associated with each leverage contract. Monex and IPMC were granted exemptions with respect to this rule so that they only are required to include contract-by-contract carrying charges in the profit and loss calculations for those contracts which were already open when Rule 31.26 became effective from that point until the contract was closed out, since those firms had not previously calculated carrying charges in that manner. Since there will be no similar problems for new LTMs, the Commission has not amended Rule 31.26 regarding the inclusion of contract-by-contract charges in the profit and loss calculation. Monex and IPMC will, of course, be permitted to continue to operate pursuant to the exemptions previously granted by the Commission with respect to Rule 31.26. However, Monex and IPMC will be required to be in full compliance with Rule 31.26 when the exemptions are no longer applicable, *i.e.*, after all the pre-1986 leverage contracts are closed out.

[14] As in the case of the amendments to part 3 of the Commission's rule and other references to applications for LTM or AP of an LTM registration, there is a specific reference to NFA in Rule 31.26. The Commission believes that this is appropriate because a computerized database would be involved, as in the case of registration, and the data should be centralized and maintained with a single custodian, even if multiple self-regulatory organizations for the leverage business are established.

Commission has carefully considered this comment, has determined to adopt the amendment to Rule 31.26 as proposed, and has directed NFA to prepare summaries of LTM quarterly reports for the Commission.

N. Mandatory Membership

The Commission proposed a new Rule 31.27 to provide that each person required to register as an LTM must become and remain a member of a registered futures association which provides for member LTMs, unless no such futures association is so registered. The Commission viewed this as one of the key provisions necessary to establish a regulatory structure for LTMs and APs of LTMs similar to that for other registrants under the Act, which is direct supervision by a DSRO under Commission oversight.

One commenter suggested, however, that Rule 31.27 regarding mandatory membership in a registered futures association should require such membership for any firm which is registered as an LTM or is required to register as an LTM, rather than merely for those required to register as an LTM as stated in proposed Rule 31.27. In the commenter's view, this would make clear that an inactive firm which remained registered as an LTM, even though it may not be required to be so registered, must be a member of a registered futures association and thus subject to the regulatory jurisdiction of the registered futures association. The commenter believes that without the change in the language of Rule 31.27, an inactive registered LTM could arguably be subject only to the Commission's direct regulatory authority. This would be less efficient than concentrating the direct oversight of all LTMs in one regulator, *i.e.*, a registered futures association, which is a Commission goal. The Commission finds merit in this suggestion, and the language of Rule 31.27 has been modified to make clear that any registered LTM, as well as any firm required to register as an LTM, must be a member of a registered futures association. Under current conditions, the Commission anticipates that NFA would have the direct supervisory responsibility for LTMs.

O. DSRO Plan

The Commission also proposed to add a new Rule 31.28, which is a counterpart to Rule 1.52 (17 CFR 1.52 (1988)) that is applicable to FCMs and IBs. The most important provision of Rule 31.28 requires each self-regulatory organization with member LTMs to adopt and enforce rules prescribing minimum financial, cover, segregation and sales practice, and related reporting requirements for its member LTMs. These self-regulatory organization requirements must be the same as, or more stringent than, the rules set forth in Part 31. This rule, taken together with Rule 31.27, form the basis for the self-regulatory structure of LTMs under Commission oversight.

The sales practice requirements of the self-regulatory organization must encompass several of the Part 31 rules: 31.3 (general antifraud); 31.10 (repurchase and resale of leverage contracts by LTMs); 31.11 (disclosure and confirmation statements); 31.14 (recordkeeping); 31.15 (purchase-and-sale and monthly statements to leverage customers); 31.17 (records of leverage transactions); 31.18 (margin calls); 31.19 (unlawful representations); 31.20 (prohibitions of guarantees against loss); and 31.23 (limited right to rescind first leverage contract). All of these Part 31 rules have remained unchanged, except for Rule 31.11, as noted above. The self-regulatory organization is expected to assure that all LTM oral solicitations and promotional material adequately disclose the risks involved with respect to leverage contracts.

The self-regulatory organization is allowed to set its own fees for conducting financial and sales practice audits, and the Commission, as proposed, has deleted its schedule of fees for audits of LTMs set forth in Appendix B to Part 31.

Rule 31.28 provides for a situation where there is more than one self-regulatory organization for LTMs. If such a situation arises, which the Commission does not presently foresee, the self-regulatory organizations could develop a joint auditing arrangement to provide for a DSRO to conduct the auditing and monitoring for compliance with minimum financial, cover, segregation and sales practice, and related reporting requirements. These provisions are also modelled on those in Rule 1.52 applicable to DSRO plans for FCMs and IBs.

Two commenters expressed concern that Rule 31.28 could impose obligations on contract markets to regulate leverage transactions. Rule 31.28 does not impose such obligations, but only requires that if a self-regulatory organization establishes a membership category for LTMs, it must then also establish an appropriate self-regulatory program. However, Rule 31.27 requires registered LTMs and those required to register as LTMs to become members only of a registered futures association, not a contract market. The Commission thus anticipates, as it has noted throughout this release, in the release announcing the proposal of these amendments, and in the releases effecting the transfer of LTM and AP of an LTM registration processing to NFA, that the regulatory structure for LTMs will consist of direct regulation by NFA under Commission oversight. *See* 54 FR 3476, 3477&n.2, 3479, 3480, 3481 (January 24, 1989); 54 FR 19556 (May 8, 1989); and 54 FR 19594 (May 8, 1989).

The Commission's intention in structuring Rule 31.28 as it did was to track Rule 1.52 which is applicable to FCMs and IBs, as noted above. When the Commission proposed rules for IBs, it assumed that only NFA would conduct financial surveillance of IBs, and Rule 1.52 was proposed to be amended accordingly. One contract market which commented on the proposed IB rules urged the Commission to make it clear that contract markets may, in their discretion, adopt financial and reporting requirements for IB members of contract markets. The Commission adopted that suggestion. 48 FR 35248, 35263–64 (August 3, 1983). To date, however, no contract market has established a membership category for IBs and NFA is the only self-regulatory organization with such a membership category and with a direct regulatory program for IBs. The Commission therefore anticipates that, although it has allowed contract markets in their discretion to establish a membership category and regulatory program for LTMs, only NFA will have such a membership category and regulatory program, as is the case for IBs.

One commenter expressed concern that transferring the regulatory burden with respect to leverage transactions from the Commission to NFA would place added strain on one of the futures industry's self-regulatory mechanisms at a time when the adequacy of these mechanisms may be called into question. This commenter stated that the Commission should make clear that the firms engaged in leverage transactions must bear the cost of their regulation and that NFA should not use funds accumulated from futures-related activities to finance regulation of leverage transactions. As referred to above, the Commission has deleted its schedule of fees for audits of LTMs and its registration fees for LTMs and APs of LTMs. 54 FR 19556, 19557 (May 8, 1989). NFA has established its own fee structures in these areas and the Commission trusts NFA has adequately provided resources for its new responsibilities.

Another commenter requested the Commission to confirm that NFA's

action with respect to LTMs will be subject to oversight and review by the Commission under Section 17 of the Act, and also urged the Commission to carefully monitor NFA's enforcement of rules with respect to LTMs. NFA's regulation of leverage transactions is subject to Commission oversight under Section 19 of the Act as well as under Section 17 of the Act. The Commission takes its oversight responsibility in this area, as is the case with its oversight of contract markets, very seriously. The Commission has carefully considered all comments on Rule 31.28, including one submitted by a commenter that generally opposed transferring direct regulatory authority to NFA, and has determined to adopt Rule 31.28 as proposed.

P. Arbitration

The third new rule which the Commission proposed is Rule 31.29. The rule requires each self-regulatory organization with member LTMs to provide an arbitration or other dispute settlement procedure consistent with the standards set forth in Part 180 of the Commission's rules. The two commenters that expressed concern with respect to Rule 31.28 imposing obligations on contract markets expressed similar concerns about Rule 31.29. For the reasons discussed in the preceding section, the Commission again reiterates that these rules impose no obligations on contract markets.

One commenter expressed opposition to pre-dispute arbitration agreements in general. In this commenter's view, the customer should have the option of choosing arbitration after a dispute arises but should never be compelled to do so. The commenter also stated that arbitration should not be permitted for leverage customer disputes; the customer should use the reparations forum instead, so that a record may be kept of the incidence of complaints. The Commission has carefully considered this comment and has determined to adopt Rule 31.29 as proposed.

III. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.* (1982), imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission previously submitted these rule amendments in proposed form, and their associated information collection requirements, to the Office of Management and Budget ("OMB"). OMB approved the collection of information associated with these rule amendments on April 12, 1989 and assigned OMB control number 3038–0029 to these rules. The burden associated with this entire collection including these rules amendments, is as follows:

Average Burden Hours Per Response.	48.004845.
Number of Respondents	24.
Total Burden Hours	9,726.10.
Frequency of response	Daily, weekly, quarterly and annually.

Copies of the OMB approved information collection package associated with these rules may be obtained from Gary Waxman, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395–7340.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* (1982), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments being proposed herein would affect LTMs. The Commission has previously determined that with respect to FCMs based upon the fiduciary nature of FCM/customer relationships, as well as the requirements that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of a small entity.[15] Since LTMs have a somewhat similar relationship with their customers as to FCMs, and since LTMs have a higher minimum financial requirement than FCMs, LTMs should likewise be excluded from the definition of a small entity. Thererfore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

List of Subjects

17 CFR Part 1

Reporting and recordkeeping requirements.

17 CFR Part 3

Reporting and recordkeeping requirements, Registration.

17 CFR Part 31

Gold, Silver, Reporting and recordkeeping requirements, Leverage transactions.

[15] *See* 47 FR 18618, 18619 (April 30, 1982).

17 CFR Part 145

Freedom of information, Commission records.

17 CFR Part 147

Sunshine Act, Commission records.

In consideration of the foregoing, and pursuant to the authority contained in sections 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982 & Supp. IV 1986), and pursuant to the authority contained in 5 U.S.C. 552 and 552b (1982), the Commission hereby proposed to amend chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: Sections 2(a)(1), 4, 4a, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 5, 5a, 6(a), 6(b), 6b, 6c, 8, 8a, 8c, 12, 15, 17, 19 and 20 of the Commodity Exchange Act, 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 19, 21, 23 and 24.

2. Section 1.3 is amended by revising paragraph (ff) to read as follows:

§ 1.3 Definitions.

* * * * *

(ff) *Designated self-regulatory organization.* This term means:

(1) self-regulatory organization of which a futures commission merchant, an introducing broker or a leverage transaction merchant is a member; or

(2) If a futures commission merchant or an introducing broker is a member of more than one self-regulatory organization and such futures commission merchant or introducing broker is the subject of an approved plan under § 1.52 of this part, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such futures commission merchant or introducing broker for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant or introducing broker is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant or introducing broker; or

(3) If a leverage transaction merchant is a member of more than one self-regulatory organization and such leverage transaction merchant is the subject of an approved plan under

§ 31.28 of this chapter, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such leverage transaction merchant for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements of the self-regulatory organizations of which the leverage transaction merchant is a member, and for receiving the reports necessitated by such minimum financial, cover, segregation and sales practice, and related reporting requirements from such leverage transaction merchant.

* * * * *

PART 3—REGISTRATION

Subpart A—Registration

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

Authority: 7 U.S.C. 2, 4, 4a, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p, 12a, 13c, 16a, and 23 unless otherwise noted.

4. Section 3.33 is amended by revising paragraphs (a) introductory text, (b) introductory text, (e), and (f) introductory text to read as follows:

§ 3.33 Withdrawal from registration.

(a) A registrant may request that its registration in one or more capacities be withdrawn in accordance with the requirements of this section if:

* * * * *

(b) A request for withdrawal from registration under this section must be made on a Form 7–W completed and filed with the National Futures Association in accordance with the instructions thereto. The request for withdrawal must be made by the sole proprietor if the registrant is a sole proprietorship, by a general partner if a partnership, or by the president or chief executive officer if a corporation, and must specify:

* * * * *

(e) A request for withdrawal from registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant must be sent to the National Futures Association, Registration Office, 200 West Madison Street, Chicago, Illinois 60606 and a copy of such request must be sent by the registrant, and by the National Futures Association within three business days of the receipt of such withdrawal request, to the Commodity Futures Trading Commission, Division of Trading and Markets, Registration Unit, 2033 K Street, NW., Washington, DC 20581. Within three business days of any determination by the National Futures Association under §§ 3.10(d), 3.13(c), 3.14(c), 3.15(c) or 3.17(c) of this part to treat the failure by a registrant to file an annual For 7–R as a request for withdrawal, the National Futures Association shall send the Commission notice of that determination.

(f) Except as otherwise provided in §§ 3.10(d), 3.13(c), 3.14(c), 3.15(c) and 3.17(c) of this part, a request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association, or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) of the granting of such request, unless prior to the effective date:

* * * * *

PART 31—LEVERAGE TRANSACTIONS

5. The authority citation for part 31 continues to read as follows:

Authority: 7 U.S.C. 12a and 23, unless otherwise noted.

§ 31.1 [Removed and reserved]

6. Section 31.1 is removed and reserved.

§ 31.2 [Removed and reserved]

7. Section 31.2 is removed and reserved.

8. Section 31.4 is amended by revising paragraph (g) to read as follows:

§ 31.4 Definitions.

* * * * *

(g) "Leverage commodity" means a commodity (gold bullion, silver bullion, bulk gold coins, bulk silver coins, or platinum) which is the subject of a leverage contract offered for purchase or sale, or purchased or sold, by a particular leverage transaction merchant, the value of which is reflected in a widely accepted and broadly disseminated commercial or retail cash price series for cash market transactions, which price series reasonably reflects the price for the leverage commodity which the customer can expect to pay or receive in normal commercial or retail market channels, including, if applicable, specified premiums or discounts; each leverage commodity is defined by reference to the following distinguishing characteristics:

(1) The nominal size, composition and tolerable ranges of the delivery pack or the actual size, composition and tolerable range of the component of the delivery pack;

(2) Minimum guaranteed quality, deliverable countries of origin, deliverable markings or imprints, and deliverable refiners or mints;

(3) The method of pricing; and

(4) The delivery specifications or alternatives including type and location of delivery facilities, packaging, transportation, registration and associated costs.

* * * * *

9. Section 31.5 is amended by revising paragraph (a) introductory text and paragraph (b), by removing paragraphs (c), (d), (e) and (g), by adding a new paragraph (c) and by redesignating paragraph (f) as paragraph (d) to read as follows:

§ 31.5 Unlawful conduct.

(a) On and after April 13, 1984, it shall be unlawful for any person:

* * * * *

(b) On and after April 13, 1984, it shall be unlawful for any leverage transaction merchant to permit any natural person to become or remain associated with it as a partner, officer or employee (or in any similar status or position involving similar functions) in any capacity which involves the offering to enter into, the entry into, or the confirmation of the execution of a leverage contract with a leverage customer, or the solicitation or acceptance of a leverage customer's order (other than in a clerical capacity) for a leverage contract, or the supervision of any person or persons so engaged, if the leverage transaction merchant knew or should have known that the person was not registered with the Commission in accordance with § 3.18 of this chapter or that the person's registration had expired, been suspended (and the period of suspension had not expired) or been revoked.

(c) On and after November 10, 1986, it shall be unlawful for any person to offer to enter into, enter into or confirm the execution of a leverage contract to or with a leverage customer, or to solicit or accept a leverage customer's order for a leverage contract, or to accept any leverage customer funds from a leverage customer to enter into or maintain a leverage contract, unless the leverage commodity which is the subject of the leverage contract has been registered with the Commission in accordance with § 31.6 of this part and involves silver bullion, gold bullion, bulk silver coins, bulk gold coins, or platinum. This paragraph shall not affect any rights or obligations arising out of any leverage contract involving any other leverage commodity that was entered into, or the

execution of which was confirmed, before November 10, 1986.

* * * * *

10. Section 31.6 is amended by revising paragraphs (a)(1), (a)(4) and (a)(5), by adding a new paragraph (a)(6) and by revising paragraph (b)(1) to read as follows:

§ 31.6 Registration of leverage commodities.

(a) * * *

(1) The person requesting registration of a leverage commodity is a registered leverage transaction merchant;

* * * * *

(4) The commodity can be readily purchased or sold in normal commercial or retail channels by leverage customers making or taking delivery on a leverage contract;

(5) The terms and conditions of the leverage contracts based on the leverage commodity are consistent with the Act and the regulations thereunder, and are not contrary to the public interest; and

(6) The terms and conditions of the leverage contracts based on the leverage commodity do not include substantial characteristics of other interests, such as options, certificates of deposit, or other regulated instruments.

(b) * * *

(1) Provide evidence that the person applying for registration of the leverage commodity is registered or has applied to the National Futures Association for registration as a leverage transaction merchant;

* * * * *

11. Section 31.7 is amended by revising paragraph (c) to read as follows:

§ 31.7 Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants.

* * * * *

(c) The requirements of §§ 1.12(c), 1.12(d), 1.12(e) and 1.12(g) of this chapter shall apply to registered leverage transaction merchants and to persons who have applied for registration as leverage transaction merchants, as if in those paragraphs the term "leverage transaction merchant or applicant therefor" were substituted for the phrase "applicant or registrant."

12. Section 31.8 is amended by revising paragraph (a)(2)(ii), by redesignating paragraphs (a)(2)(iii)(A) and (a)(2)(iii)(B) as paragraphs (a)(2)(v)(A) and (a)(2)(v)(B), by adding new paragraphs (a)(2)(iii) and (a)(2)(iv), and by revising paragraphs (b) and (e) to read as follows:

§ 31.8 Cover of leverage contracts.

(a) * * *

(2) * * *

(ii) Warehouse receipts for gold bullion in the case of leverage contracts on bulk gold coins, bulk gold coins in the case of leverage contracts on gold bullion, silver bullion in the case of leverage contracts on bulk silver coins, bulk silver coins in the case of leverage contracts on silver bullion, one type of bulk gold coins for leverage contracts involving another type of bulk gold coins on an ounce-for-ounce basis if each type of bulk gold coins used as cover is the subject of a leverage contract offered by the leverage transaction merchant pursuant to registration under § 31.6 of this part, and one type of bulk silver coins for leverage contracts involving another type of bulk silver coins on an ounce-for-ounce basis if each type of bulk silver coins used as cover is the subject of a leverage contract offered by the leverage transaction merchant pursuant to registration under § 31.6 of this part, which are held in commercial banks located in the United States or in approved contract market depositories: *Provided,* That the balance of the principal and accrued interest on any loans against such warehouse receipts does not exceed 70 percent of the current market value of the commodity for which it represents cover.

(iii) Purchase, in physical form, of the leverage commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section, with settlement within two business days shall be considered permissible cover from the time the purchase order is confirmed, even though the leverage transaction merchant does not have possession or control of a warehouse receipt until settlement: *Provided, however,* That such purchases are not made from an affiliated firm, and such purchases at no time constitute more than 10 percent of the amount of physical commodities subject to open long leverage contracts entered into with leverage customers: *And, provided further,* That the leverage transaction merchant maintains, in accordance with § 31.14 of this part, detailed records of these transactions which will be subject to inspection, copying and audit by the Commission and a designated self-regulatory organization.

(iv) A long spot futures contract on the leverage commodity subject to the leverage contract, or of the same alternative commodities provided for in paragraph (a)(2)(ii) of this section, if the leverage transaction merchant has stopped a delivery notice which is non-transferable with respect to that futures contract and has otherwise complied with any procedures, including payment, necessary for taking delivery, even though the leverage transaction merchant does not have possession or control of a warehouse receipt for two business days: *Provided, however,* That the amount of physical commodities subject to such long spot futures contracts at no time constitutes more than 10 percent of the amount of physical commodities subject to open long leverage contracts entered into with leverage customers: *And, provided further,* That the leverage transaction merchant maintains, in accordance with § 31.14 of this part, detailed records of its deliveries on futures contracts, which will be subject to inspection, copying and audit by the Commission and a designated self-regulatory organization.

* * * * *

(b) Such leverage transaction merchant must be in compliance with paragraph (a) of this section at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization. A leverage transaction merchant who is not in compliance with paragraph (a) of this section or in unable to demonstrate such compliance must immediately cease engaging in the business of offering to enter into, entering into, or confirming the execution of, any leverage contract until such time as the leverage transaction merchant is able to demonstrate such compliance. Nothing in this paragraph (b) shall be construed as preventing the Commission or the designated self-regulatory organization from taking action against a leverage transaction merchant for non-compliance with any of the provisions of this section.

* * * * *

(e) The requirements of paragraphs (a) through (d) of this section shall not be applicable if the leverage transaction merchant is a member of a designated self-regulatory organization and conforms to minimum cover standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to section 19 of the Act and § 31.28 of this part.

13. Section 31.9 is amended by revising paragraphs (a)(2), (a)(4) and (d) to read as follows:

§ 31.9 Minimum financial requirements.

(a) * * *

(2) The requirements of paragraph (a) of this section shall not be applicable if the applicant or registrant is a member of a designated self-regulatory organization and conforms to minimum

financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to section 19 of the Act and § 31.28 of this part.

* * * * *

(4) A leverage transaction merchant who is not in compliance with this section, or is unable to demonstrate such compliance as required by paragraph (a)(3) of this section, must immediately cease engaging in the business of offering to enter into, entering into, or confirming the execution of, any leverage contract until such time as the leverage transaction merchant is able to demonstrate such compliance. Nothing in this paragraph shall be construed as preventing the Commission or the designated self-regulatory organization from taking action against a leverage transaction merchant for non-compliance with any of the provisions of this section. Any leverage transaction merchant required immediately to cease doing business under this paragraph shall remain liable on all leverage contracts previously entered into until all rights of and obligations owing to the customers thereunder have been fulfilled.

* * * * *

(d) Each registered leverage transaction merchant, and each person who has applied for registration as a leverage transaction merchant, must make and keep as a record in accordance with § 31.14 of this part formal computations of its adjusted net capital and of its minimum financial requirements pursuant to this section as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission, the designated self-regulatory organization, if any, or the United States Department of Justice in the case of a registrant, within 30 days after the date for which the computations are made, commencing the first month-end after the date the application for registration is filed.

14. Section 31.11 is amended by revising the first sentence of paragraph (a)(1), paragraphs (a)(2)(ii), (a)(2)(viii), (e), (h), (k)(1) introductory text, (k)(1)(i) introductory text before bold-face statement, (k)(1)(ii) introductory text, (k)(2) introductory text, (k)(2)(i) introductory text before bold-face statement and (k)(2)(ii) introductory text, and by adding a new paragraph (m) to read as follows:

§ 31.11 Disclosure.

(a) * * *

(1) The following bold-face risk disclosure statement in at least ten-point type on the first page of the Disclosure Document: **BECAUSE OF THE UNPREDICTABLE NATURE OF THE PRICES OF PRECIOUS AND OTHER METALS, LEVERAGE CONTRACTS INVOLVE A HIGH DEGREE OF RISK AND ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC.** * * *

(2) * * *

(ii) The distinguishing characteristics of the contract and of the leverage commodity, including, in particular, those characteristics of the leverage commodity enumerated in § 31.4(g)(1)–(4) of this part;

* * * * *

(viii) A statement to the effect that other persons may be unwilling to buy from the leverage customer the leverage commodity that is deliverable on the leverage contract without first requiring an inspection or assay at the expense of the leverage customer; a statement to the effect that the leverage transaction merchant may be unwilling to accept delivery and pay for such leverage commodity without first requiring an inspection or assay at the expense of the leverage customer; and a description of any other requirements for the delivery of a leverage commodity by a leverage customer to a leverage transaction merchant in connection with a short leverage contract;

* * * * *

(e)(1) The leverage transaction merchant must file with the National Futures Association three copies and with the Commission at its Washington, DC headquarters, Attn: Secretariat, one copy of the document for each leverage contract that it offers or that it intends to offer not less than 21 calendar days prior to the date the leverage transaction merchant first intends to furnish the document to a prospective leverage customer. The leverage transaction merchant must specify with the filing the date it first intends to deliver the document to a prospective leverage customer;

(2) Submit to paragraphs (h) and (m) of this section, the leverage transaction merchant must file with the National Futures Association three copies and with the Commission at its Washington, D.C. headquarters, Attn: Secretariat, one copy of all subsequent amendments to the document for each leverage contract that it offers or that it intends to offer within 30 calendar days after the date upon which the leverage transaction merchant first knows or has reason to know of the defect requiring the amendment.

* * * * *

(h) A leverage transaction merchant must transmit a notification to each leverage customer within 24 hours of making any change not otherwise permitted under the contract terms set forth in accordance with paragraph (a)(2) of this section. A notification of any change in the interest rate charged by the leverage transaction merchant must also be transmitted to each leverage customer within twenty-four hours of each change: *Provided, however,* That no notification is required if the change in interest rate is one percent or less as compared to the rate charged at the prior month-end and the new interest rate is made available to customers by means of a toll-free telephone call, and such availability is set forth in the Disclosure Document. The notification required by this paragraph must be transmitted by first class mail or other, at least equivalent, means of communication.

* * * * *

(k)(1) Not later than the next business day after the entry into a long leverage contract with a customer, each leverage transaction merchant shall furnish to such customer, by first-class mail or other, at least equivalent, means of communication, a written Confirmation Statement in a format specified by the Commission containing:

(i) For a leverage customer's first leverage transaction, the following bold-faced statement in at least ten-point type: * * *

(ii) For every leverage transaction, the following information:

* * * * *

(2) Not later than the next business day after entry into a short leverage contract with a customer, each leverage transaction merchant shall furnish to such customer by first-class mail or other, at least equivalent, means of communication, a written Confirmation Statement in a format specified by the Commission containing:

(i) For a leverage customer's first leverage transaction, the following bold-faced statement in at least ten-point type: * * *

(ii) For every leverage transaction, the following information:

* * * * *

(m)(1) Notwithstanding any other provision in this section, if a leverage transaction merchant is not offering to enter into, entering into or confirming the execution of, soliciting or accepting a leverage customer's order for, or accepting any leverage customer funds

from a leverage customer to enter into or maintain any short leverage contract, the leverage transaction merchant may delete or disregard references to short leverage contracts in its Disclosure Document as follows:

(i) The third sentence of the first paragraph of the required bold-faced risk disclosure statement in paragraph (a)(1) of this section;

(ii) The words "and a short leverage transaction" in the fourth sentence of the first paragraph of the required bold-faced risk disclosure statement in paragraph (a)(1) of this section;

(iii) The words "and leverage contracts sold to a leverage transaction merchant are re-established at the then prevailing ask price" in the fifth sentence of the third paragraph of the required bold-faced risk disclosure statement in paragraph (a)(1) of this section;

(iv) The second sentence of the fifth paragraph of the required bold-faced risk disclosure statement in paragraph (a)(1) of this section;

(v) The words "or resold to" in the first sentence of the sixth paragraph of the required bold-faced risk disclosure statement in paragraph (a)(1) of this section;

(vi) The words "or resell," "and must also offer to resell any short leverage contract previously sold by a leverage customer," and "or short" in the second sentence of the sixth paragraph of the required bold-faced risk disclosure statement in paragraph (a)(1) of this section;

(vii) The words "or resold" and "or resale" (twice) in paragraph (a)(2)(vii) of this section;

(viii) All of the words following the first semicolon in paragraph (a)(2)(viii) of this section;

(ix) The words "and a representative single short leverage contract" in paragraph (a)(3) of this section; and

(x) The words "or short" in paragraphs (a)(5)(i) and (a)(5)(ii) of this section.

(2) Any leverage transaction merchant using a Disclosure Document that deletes or disregards references to short leverage contracts as permitted by paragraph (m)(1) of this section must file, in accordance with the provisions of paragraph (e)(2) of this section, a new Disclosure Document meeting all of the requirements of paragraphs (a) through (i) of this section at least 30 calendar days before it begins to offer any short leverage contract.

15. Section 31.12 is amended by adding a new paragraph (h) to read as follows:

§ 31.12 Segregation.

* * * * *

(h) The requirements of paragraphs (a) through (g) of this section shall not be applicable if the leverage transaction merchant is a member of a designated self-regulatory organization and conforms to minimum segregation standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, regulations or resolutions approved by the Commission pursuant to section 19 of the Act and § 31.28 of this part.

16. Section 31.13 is amended by revising paragraphs (a) introductory text, (b)(2) and (c), by redesignating paragraphs (f)(3) and (f)(4) as paragraphs (f)(4) and (f)(5), by adding a new paragraph (f)(3), and by revising paragraphs (g)(2), (j), (k), (l)(1) introductory text, (l)(1)(vii), (l)(2), (l)(3), and (m) to read as follows:

§ 31.13 Financial reports of leverage transaction merchants.

(a) Each leverage transaction merchant who files an application for registration with the National Futures Association under § 3.17 of this chapter shall submit concurrently with the filing of such application either:

* * * * *

(b) * * *

(2) The provisions of paragraph (b)(1) of this section may be met by any person registered as a leverage transaction merchant who is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations, or resolutions and approved after April 13, 1984, by the Commission pursuant to section 19 of the Act and § 31.28 of this part: *Provided, however,* That each such registrant shall promptly file with the Commission a true and exact copy of each financial report which it files with such designated self-regulatory organization.

(c) Each Form 2–FR which must be certified by an independent public accountant in accordance with the provisions of paragraphs (a)(1), (a)(2) and (b)(1) of this section, must be certified in accordance with § 1.16 of this chapter, and must be accompanied by the accountant's report on material inadequacies in accordance with the provisions of § 1.16(c)(5) of this chapter. In all other respects, the independent public accountant shall act in accordance with the provisions of § 1.16 (except paragraph (f)) of this chapter: *Provided, however,* That the term "Form 2–FR" shall be substituted for "Form 1–FR" in § 1.16(c)(5) of this chapter, the term "§ 31.9" shall be substituted for the term "§ 1.17," the term "leverage transaction merchant" shall be substituted for the term "futures commission merchant," and "the segregation requirements of § 31.12" shall be substituted for "the segregation requirements of section 4d(2) of the Act and these regulations and the secured amount requirement of the Act and these regulations."

* * * * *

(f) * * *

(3) A statement of changes in liabilities subordinated to claims of general creditors for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made;

* * * * *

(g) * * *

(2) Statements of: income (loss); cash flows; changes in ownership equity; and changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent statement of financial condition filed with the Commission and the date for which the report is made: *Provided, however,* That for an applicant filing pursuant to paragraph (a) of this section, the period must be the year ending as of the date of the statement of financial condition;

* * * * *

(j) Any leverage transaction merchant wishing to establish a fiscal year other than the calendar year may do so by notifying the National Futures Association of its election of such fiscal year in writing, concurrently with the filing of Form 2–FR pursuant to paragraph (a) of this section, but in no event may such fiscal year end more than one year from the date of the Form 2–FR filed pursuant to paragraph (a) of this section. A leverage transaction merchant which does not so notify the National Futures Association will be deemed to have elected the calendar year as its fiscal year. A leverage transaction merchant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the designated self-regulatory organization.

(k) In the event any leverage transaction merchant finds that it cannot file its report for any period within the time specified in paragraphs (b) or (d) of this section without substantial undue hardship, it may file with the designated self-regulatory

organization an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial report was to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the designated self-regulatory organization before the time specified in paragraphs (b) or (d) of this section for filing the report. Within 10 calendar days after receipt of the application for an extension of time, the designated self-regulatory organization shall: (1) Notify the leverage transaction merchant of the grant or denial of the requested extension; or (2) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(l)(1) In the event a leverage transaction merchant finds that it cannot file its certified financial report and schedules for any year within the time specified in paragraph (b) of this section without substantial undue hardship, it may file with the designated self-regulatory organization an application for an extension of time to a specified date not more than 90 days after the date as of which the certified financial report and schedules were to have been filed. The application must be submitted by the leverage transaction merchant and must:

* * * * *

(vii) Be received by the designated self-regulatory organization prior to the date on which the report is due; and

* * * * *

(2) Within 10 calendar days after receipt of an application for extension of time, the designated self-regulatory organization shall: (i) Notify the leverage transaction merchant of the grant or denial of the requested extension; or (ii) indicate that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(3) On the written request of a leverage transaction merchant, or on its own motion, the designated self-regulatory organization may grant an extension of time or an exemption from any of the certified financial reporting requirements of this section either unconditionally or on specified terms and conditions.

(m) All of the Forms 2–FR filed pursuant to this section will be public: *Provided, however,* That if the statement of financial condition, the computation of the minimum capital requirements pursuant to § 31.9 of this part, the schedule of coverage requirements and cover provided, and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 2–FR, trade secrets and certain other commercial or financial information on such other statements and schedules, then such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and Parts 145 and 147 of this chapter. All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, by any self-regulatory organization of which the person filing such report is a member, by the National Futures Association in the case of an applicant, and by any other person to whom the Commission believes disclosure of such information is in the public interest. The independent public accountant's opinion filed pursuant to this section will be deemed to be public information.

* * * * *

17. Section 31.16 is revised to read as follows:

§ 31.16 Monthly reporting requirements.

(a) *Monthly activity.* Each leverage transaction merchant shall file written monthly reports with the National Futures Association in the format specified by the National Futures Association, by the tenth business day of the month following the month covered by the report and shall include the following information separately for each leverage commodity and each long and short leverage contract:

(1) The total number of leverage contracts that are open as of the close of business on the last business day of the month for:

(i) All customer accounts, and

(ii) Separately for commercial leverage accounts.

(2) The total number of leverage contracts entered into by leverage customers during the month for:

(i) All customer accounts, and

(ii) Separately for commercial leverage accounts.

(3) The total number of leverage contracts which were repurchased or resold by the leverage transaction merchant during the month.

(4) The total number of leverage contracts which were liquidated by the leverage transaction merchant during the month (*i.e.,* as a result of overdue or unanswered margin calls).

(5) The total number of deliveries on leverage contracts during the month.

(6) The total number of leverage contracts which were rescinded during the month.

(b) *Prices.* The monthly report shall also show the following information separately for each leverage commodity and each long and short leverage contract: the leverage transaction merchant's last bid price offered and last ask price offered as of the close of business on each business day.

18. Section 31.21 is revised to read as follows:

§ 31.21 Leverage contracts entered into prior to April 13, 1984; subsequent transactions.

Nothing contained in these regulations shall be construed to affect any lawful activities that occurred prior to April 13, 1984. All leverage contracts offered or entered into on or after April 13, 1984 shall be subject to the terms and conditions of these regulations.

19. Section 31.22 is revised to read as follows:

§ 31.22 Prohibited trading in leverage contracts.

No futures commission merchant or introducing broker shall offer to enter into, enter into, confirm the execution of, or solicit or accept orders for any leverage contract.

§ 31.24 [Removed and reserved]

20. Section 31.24 is removed and reserved.

21. Section 31.25 is amended by revising paragraph (b) to read as follows:

§ 31.25 Bid and ask prices; carrying charges.

* * * * *

(b) A leverage transaction merchant must apply a carrying charge rate on a short leverage contract that is within one percent per annum of the carrying charge rate that it applies to a long leverage contract. In the case of a short leverage contract, the leverage customer must be credited with carrying charges computed on the total initial value of the contract, using the bid price when the contract was executed, plus any margin deposits made by the leverage customer in connection with the contract, and the same carrying charge rate must be applied to the total initial value of the contract and to the margin deposits. In the case of a long leverage contract, the leverage customer must be assessed carrying charges only on the unpaid balance of the contract, which is the total initial value of the contract, using the ask price when the contract was

executed, minus any margin deposits made in connection with the contract: *Provided, however,* That in the case of a long leverage contract, interest on unpaid carrying charges may be assessed at the same rate as the interest rate component of the carrying charges and, if such an assessment were made and if the leverage transaction merchant offers short leverage contracts, payment of interest on carrying charges that have been credited to the leverage customer's account and not withdrawn must be made at the same rate as the interest rate component of the carrying charges.

22. Section 31.26 is amended by removing paragraph (b) and the designation for paragraph (a), redesignating former paragraphs (a) (1) through (12) as paragraphs (a) through (l), and by revising the introductory text, to read as follows:

§ 31.26 Quarterly reporting requirement.

Each leverage transaction merchant must file, in accordance with the instructions of, and in the format specified by, the National Furtures Association a quarterly report with the National Futures Association by the fifteenth business day of the month following the quarter covered by the report. The report must list all leverage contracts which were either repurchased, resold, liquidated or settled by delivery by or to the leverage transaction merchant during the quarter and, with respect to each leverage contract, must include the following information:

* * * * *

23. Section 31.27 is added to read as follows:

§ 31.27 Registered futures association membership.

Each person registered or required to register as a leverage transaction merchant must become and remain a member of at least one futures association which is registered under section 17 of the Act and which provides for the membership therein of such leverage transaction merchant, unless no such futures association is so registered.

24. Section 31.28 is added to read as follows:

§ 31.28 Self-regulatory organization adoption and surveillance of minimum financial, cover, segregation and sales practice requirements.

(a) Each self-regulatory organization must adopt, and submit for Commission approval, rules prescribing minimum financial, cover, segregation and sales practice, and related reporting requirements for all its members who are registered leverage transaction merchants. Each self-regulatory organization shall submit for Commission approval any modification or other amendments to such rules. Such requirements must be the same as, or more stringent than, those contained in this part 31 and the definition of adjusted net capital must be the same as that prescribed in § 31.9(b)(4) of this part.

(b) Each self-regulatory organization which has members who are registered leverage transaction merchants shall have in effect and enforce rules submitted to the Commission pursuant to paragraph (a) of this section and approved by the Commission.

(c) Any two or more self-regulatory organizations may file with the Commission a plan for delegating to a designated self-regulatory organization, for any registered leverage transaction merchant which is a member of more than one such self-regulatory organization, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements adopted by such self-regulatory organizations in accordance with paragraph (a) of this section; and

(2) Receiving the reports necessitated by such minimum financial, cover, segregation and sales practice, and related reporting requirements.

(d) Any plan filed under this section may contain provisions for the allocation of expenses reasonably incurred by the designated self-regulatory organization among the self-regulatory organizations participating in such a plan.

(e) A plan's designated self-regulatory organization must report to that plan's other self-regulatory organizations any violation of such other self-regulatory organizations' rules and regulations for which the responsibility to monitor, audit or examine has been delegated to such designated self-regulatory organization under this section.

(f) The self-regulatory organizations may, among themselves, establish programs to provide access to any necessary information.

(g) After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part of it:

(1) Is necessary or appropriate to serve the public interest;

(2) Is for the protection and in the interest of leverage customers;

(3) Reduces multiple monitoring and auditing for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements of the self-regulatory organizations submitting the plan for any leverage transaction merchant which is a member of more than one self-regulatory organization;

(4) Reduces multiple reporting of the information necessitated by such minimum financial, cover, segregation and sales practice, and related reporting requirements by any leverage transaction merchant which is a member of more than one self-regulatory organization;

(5) Fosters cooperation and coordination among the self-regulatory organizations; and

(6) Does not hinder the development of a registered futures association under Section 17 of the Act.

(h) After the Commission has approved a plan or part of one under paragraph (g) of this section, a self-regulatory organization relieved of responsibility must notify each of its members which is subject to such a plan:

(1) Of the limited nature of its responsibility for such a member's compliance with its minimum financial, cover, segregation and sales practice, and related reporting requirements; and

(2) Of the identity of the designated self-regulatory organization which has been delegated responsibility for such a member.

(i) The Commission may at any time, after appropriate notice and opportunity for hearing, withdraw its approval of any plan or part of one established under this section, if such plan or part of one ceases to effectuate adequately the purposes of Section 19 of the Act or of this section.

(j) Whenever a registered leverage transaction merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such self-regulatory organization must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C. and send a copy of that notification to such leverage transaction merchant.

(k) Nothing in this section shall preclude the Commission from examining any leverage transaction merchant for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements to which such leverage transaction merchant is subject.

(l) In the event a plan is not filed and/or approved for each registered leverage transaction merchant which is a member

of more than one self-regulatory organization, the Commission may design and, after notice and opportunity for comment, approve a plan for those leverage transaction merchants which are not the subject of an approved plan (under paragraph (g) of this section), delegating to a designated self-regulatory organization the responsibilities described in paragraph (c) of this section.

25. Section 31.29 is added to read as follows:

§ 31.29 Arbitration or other dispute settlement procedures.

Each self-regulatory organization which has members who are registered as leverage transaction merchants must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair, equitable and expeditious procedure, through arbitration or otherwise, for the voluntary settlement of a leverage customer's claim or grievance brought against any member leverage transaction merchant. Such rules shall be consistent with the rules set forth in Part 180 of this chapter governing contract market arbitration and dispute settlement procedures.

Appendix B to Part 31—[Removed]

26. Appendix B to Part 31 is removed.

PART 145—COMMISSION RECORDS AND INFORMATION

27. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (7 U.S.C. 4a(j)); Pub. L. 99–570.

28. Section 145.5 is amended by revising paragraph (d)(1)(i)(H) to read as follows:

§ 145.5 Disclosure of nonpublic records.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(H) The following portions, and footnote disclosures thereof, of the Form 2-FR, provided the procedure set forth in § 31.13(m) of this chapter is followed: The Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

* * * * *

PART 147—OPEN COMMISSION MEETINGS

29. The authority citation for Part 147 continues to read as follows:

Authority Sec. 3(a), Pub. L. 94–409, 90 Stat. 1241 (5 U.S.C. 552b); Sec. 101(a)(11), Pub. L. 93–463, 88 Stat. 1391 (7 U.S.C. 4a(j)).

30. Section 147.3 is amended by revising paragraph (b)(4)(i)(A)(*8*) to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(A) * * *

(*8*) The following portions, and footnote disclosures thereof, of the Form 2-FR provided the procedure set forth in § 31.13(m) of this chapter is followed: The Statement of Income (Loss), the Statement of Cash Flows, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors Pursuant to a Satisfactory Subordination Agreement and the accountant's report on material inadequacies filed under § 1.16(c)(5) of this chapter;

* * * * *

Issued in Washington, DC on September 29, 1989 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–23452 Filed 10–4–89; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Rel. No. SAB 86]

Staff Accounting Bulletin No. 86

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: Staff Accounting Bulletin No. 78 ("SAB 78"), which was released on August 25, 1988, expressed the staff's views regarding certain matters relating to quasi-reorganizations, including deficit eliminations. Since the issuance of SAB 78, the staff has received inquiries about its position concerning the accounting for the tax benefits of operating loss carryforwards that existed as of the date of a quasi-reorganization that are subsequently recognized in the financial statements. This staff accounting bulletin addresses this issue.

FOR FURTHER INFORMATION CONTACT: Kenneth V. Moreland, Office of the Chief Accountant (202/272–2130); or Robert A. Bayless (202/272–2553), Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: September 28, 1989.

Jonathan G. Katz,

Secretary.

Staff Accounting Bulletin No. 86

The staff herein adds questions 4 and 5 to section S of Topic 5 of the Staff Accounting Bulletin Series. Section S discusses certain matters related to quasi-reorganizations, including deficit eliminations.

Topic 5: Miscellaneous Accounting

* * * * *

S. Quasi-Reorganization

* * * * *

Question 4: The interpretive response to question 1 indicates that the staff believes that a deficit reclassification of any nature is considered to be a quasi-reorganization, and accordingly, must satisfy all the conditions of section 210.[8] Assume a company has adopted Statement of Financial Accounting Standards ("SFAS") No. 96, has satisfied all the requisite conditions of section 210, and has eliminated a deficit in retained earnings by a concurrent reduction in paid-in capital, but did not need to restate assets and liabilities by a charge to capital because assets and liabilities were already stated at fair values. How should the company reflect the tax benefits of operating loss or tax credit carryforwards for financial reporting purposes that existed as of the date of the quasi-reorganization when such tax benefits are subsequently recognized for financial reporting purposes?

[8] *Supra* Note 3.

Interpretive Response: The staff believes SFAS No. 96 requires that any subsequently recognized tax benefits of operating loss or tax credit carryforwards that existed as of the date of a quasi-reorganization be reported as a direct addition to paid-in capital. The staff believes that this position is consistent with the "new company" or "fresh-start" concept embodied in section 210,[9] and in existing accounting literature regarding quasi-reorganizations, and with the FASB staff's justification for such a position when they stated that a "new enterprise would not have tax benefits attributable to operating losses or tax credits that arose prior to its organization date.[10]

The FASB recognized that a practice existed of recording deficit elimination type quasi-reorganizations without evaluating the concurrent need to restate assets and liabilities to fair values, and provided guidance on accounting for the tax benefits of carryforward items subsequent to such an event.[11] This practice and accounting is not permitted by section 210, and accordingly, is not appropriate for registrants. The staff believes that all registrants that comply with the requirements of section 210 in effecting a quasi-reorganization should apply the accounting required by the first sentence of paragraph 54 of SFAS No. 96 for the tax benefits of tax carryforward items.[12]

Therefore, even though the only effect of a quasi-reorganization is the elimination of a deficit in retained earnings because assets and liabilities are already stated at fair values and the revaluation of assets and liabilities is unnecessary (or a write-up of net assets is prohibited as indicated in the interpretive response to question 3 above), subsequently recognized tax benefits of operating loss or tax credit carryforward items should be recorded as a direct addition to paid-in capital.

Question 5: If a company had previously recorded a quasi-reorganization that only resulted in the elimination of a deficit in retained earnings, may the company reverse such entry and "undo" its quasi-reorganization?

Interpretive Response: No. The staff believes APB Opinion No. 20 would preclude such a change in accounting. It states: "a method of accounting that was previously adopted for a type of transaction or event which is being terminated or *which was a single, nonrecurring event in the past should not be change.*" [Emphasis added.][13]

[FR Doc. 89-23481 Filed 10-4-89; 8:45 am]

BILLING CODE 23481

[9] Section 210 discusses the "conditions under which a quasi-reorganization has come to be applied in accounting to the corporate procedures in the course of which a company, without creation of new corporate entity and without intervention of formal court proceedings, is enabled to eliminate a deficit whether resulting from operations or recognition of other losses or both and to establish a new earned surplus account for the accumulation of earnings subsequent to the date selected as the effective date of the quasi-reorganization." It further indicates that "it is implicit in a procedure of this kind that is not to be employed recurrently *but only under circumstances which would justify an actual reorganization or formation of a new corporation,* particularly if the sole purpose of the quasi-reorganization is the elimination of a deficit in earned surplus resulting from operating losses." [Emphasis added.]

[10] *Special Report: A Guide to Implementation of Statement 96 on Accounting for Income Taxes;* Financial Accounting Standards Board (March 1989); question 26, pages 36 and 37, states in part: "ARB No. 43, Chapter 7, "Capital Accounts," states that after a quasi-reorganization, the enterprise's accounting should be substantially similar to that appropriate for a new enterprise. As such, any subsequently recognized tax benefit of an operating loss or tax credit carryforward for financial reporting that existed at the date of a quasi-reorganization should not be included in the determination of income of the "new" enterprise, regardless of whether losses that gave rise to an operating loss carryforward were charged to income prior to the quasi-reorganization or directly to contributed capital as part of the quasi-reorganization. A new enterprise would not have tax benefits attributable to operating losses or tax credits that arose prior to its organization date."

[11] SFAS No. 96 (December 1987); paragraph 54, states; "Some quasi reorganizations involve only the elimination of a deficit in retained earnings by a concurrent reduction in contributed capital. *For that type of reorganization,* subsequent recognition of the tax benefit of a prior operating loss or tax credit carryforward for financial reporting is reported as required by paragraph 52 and then reclassified from retained earnings to contributed capital." [Emphasis added.] Also, *Supra* Note. 10.

[12] The first sentence of paragraph 54 of SFAS No. 96 states: "The tax benefit of an operating loss or tax credit carryforward for financial reporting as of the date of a quasi-reorganization as defined and contemplated (involving write-offs directly to contributed capital) in ARB No. 43, Chapter 7, "Capital Accounts," is reported as a direct addition to contributed capital if the tax benefits are recognized in subsequent years".

[13] Accounting Principles Board Opinion No. 20 (July 1971); paragraph 16.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM89-13-000; Order No. 514-A]

Revision of Formula for Computing Monthly Carrying Charges in PGA Filings

Issued, September 28, 1989.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) adopts as final and without change an interim revision of the formula used to compute the monthly carrying charge rate for Account No. 191 carrying charges required in the Commission's Purchased Gas Adjustment (PGA) filings. The Commission revised the regulations on an interim basis in Order No. 514 (54 FR 25,235 (June 14, 1989)) and at the same time sought comments. No comments were received.

EFFECTIVE DATE: The effective date of this final rule is September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of the final rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn System Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt, Elizabeth Ann Moler and Jerry J. Langdon.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is adopting as final a revision of the formula used to compute the monthly carrying charge rate for Account No. 191 carrying charges required in the Commission's Purchased Gas Adjustment (PGA)

filings.[1] Under the regulations adopted on an interim basis in Order No. 514, the daily interest rate to be determined in the second step of the carrying changes formula in § 154.305(h)(4) of the Commission's regulations must be expressed to the nearest one ten-thousandth of one percent (*i.e.*, rounded to the sixth decimal place).[2] The Commission did not receive any comments on the interim rule and is therefore adopting this final rule without any changes.

II. Background and Discussion

Prior to Order No. 514, the Commission's PGA regulations specifically required that each result in the formula for determining the carrying charge rate on a pipeline's Account No. 191 balances must be expressed to the nearest one one-hundredth of one percent, *i.e.*, rounded to the fourth decimal place.[3]

The Commission noted in Order No. 514 that several pipelines were granted a limited waiver of the carrying charges formula in § 154.305(h)(4) to permit them to express the daily interest rate calculated under § 154.305(h)(4)(ii), the second step of the carrying charges formula, to the nearest one ten-thousandth of one percent. The Commission granted these waivers because a Commission staff study found that expressing the daily interest rate in the second step of the carrying charges formula to the nearest one one-hundredth of one percent created variances between the de facto annual rate used to compute carrying charges on a pipeline's Account No. 191 balances and the annual rate used to calculate refunds for general NGA section 4 rate proceedings according to § 154.67(c)(2)(ii)(A) of the Commission's regulations.[4]

The Commission revised the carrying charges rate computation formula in § 154.305(h)(4)(ii) in Order No. 514, an interim rule issued on June 8, 1989, in order to provide an immediate generic remedy to pipelines, and to ensure uniform treatment of the monthly carrying charges formula by all pipelines at the earliest date possible. The Commission's interim rule also rendered unnecessary the filing of further petitions by pipelines for limited waiver of the carrying charges formula in § 154.305(h)(4).

The Commission sought comments on the interim rule due on or before July 24, 1989. No comments were filed.

Accordingly, for the reasons discussed in Order No. 514, the Commission is adopting as final and without change the regulations amended on an interim basis in Order No. 514.

This final rule is effective September 28, 1989.

III. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (Act) generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities.[5] The pipelines affected by this rule are too large to be considered "small entities" within the meaning of the Act.[6] Accordingly, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

IV. National Environmental Policy Act Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[7] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[8] This rule involves the review of natural gas rate filings and establishment of rates for the transportation and sale of natural gas under sections 4 and 5 of the Natural Gas Act. Pursuant to § 380.4(a)(25) of the Commission's regulations, the establishment of such rates is categorically excluded from the requirement.[9] The Commission, therefore, will not prepare an environmental assessment or an environmental impact statement for this rule.

V. Paperwork Reduction Act Statement

The Paperwork Reduction Act [10] and the Office of Management and Budget (OMB) [11] require that OMB approve certain information collection requirements imposed by agency rule. This final rule does not change the information collection requirements approved by OMB. The rule simply changes the decimal place that must be used in expressing the daily interest rate in § 154.305(h)(4)(ii), the second step of the carrying charges formula in § 154.305(h)(4) of the Commission regulations. The Commission, therefore, is not required to notify OMB of the technical change.

List of Subjects in 18 CFR Part 154

Alaska, Natural gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 154, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 154—RATE SCHEDULE AND TARIFFS

1. The authority citation for part 154 continues to read as follows:

Authority: Natural Gas Act, 5 U.S.C. 717–717w (1982), Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982).

PART 154—[AMENDED]

2. The interim rule amending 18 CFR part 154 which was published at 54 FR 25,235 on June 14, 1989, is adopted as a final rule without change.

[FR Doc. 89–23499 Filed 10–4–89; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 294

[Docket No. RM79-52-001; Order No. 401-A]

Procedures for Shortages of Electric Energy and Capacity Under Section 206 of the Public Utility Regulatory Policies Act of 1978; Technical Amendment

Issued September 28, 1989.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; technical amendment.

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[1] *See* 18 CFR 154.305(h) (1988).

[2] 54 FR 25,235 (June 14, 1989); FERC Stats. & Regs. ¶ 30,855 (June 8, 1989).

[3] *See* 18 CFR 154.305(h)(4) (ii) and (iii) (1988).

[4] 18 CFR 154.67(c)(2)(iii)(A) (1988).

[5] 5 U.S.C. 601–612 (1982).

[6] The act defines a "small entity" as a small business, a small not-for-profit enterprise or a small governmental jurisdiction. 5 U.S.C. 601(b) (1982). A "small business" is defined by reference to section 3 of the Small Business Act, as an enterprise which is "independently owned and operated and which is not dominant in its field of operation." 5 U.S.C. 6.32(a) (1982).

[7] Regulations Implementing National Environmental Policy Act, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[8] CFR 380.4 (1988).

[9] 18 CFR 380.4(a)(25) (1989).

[10] 44 U.S.C. 3501–3520 (1982).

[11] 5 U.S.C. 1320.13 (1989).

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this technical amendment to make two corrections in part 294 of its regulations.

On October 5, 1984, the Commission issued a final rule in Order No. 401 making permanent the procedures for utilities to report shortages of electric energy and capacity under section 206 of the Public Utility Regulatory Policies Act of 1978 in part 294 of the Commission's regulations (49 FR 39,536 (Oct. 9, 1984)). The regulatory text in Order No. 401 failed to (1) reflect the correct title and (2) delete the note at the end of § 294.101 which was applicable to the interim rule only.

This technical amendment is correcting the title for part 294 to reflect that the above regulations are final and not interim. This amendment is also correcting a note which should have been deleted at the end of § 294.101 of the Commission's regulations, stating that the section's reporting requirements are not subject to OMB approval. By issuing this technical amendment, the Commission is clarifying that these reporting procedures are permanent and that OMB has reviewed and approved them.

EFFECTIVE DATE: These technical corrections are effective September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE, Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this technical amendment will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE, Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

The Federal Energy Regulatory Commission (Commission) is making two technical corrections in part 294 of the Commission's regulations. The Commission is correcting the title for Part 294 to reflect that these regulations are final and not interim. The Commission is also deleting the note at the end of § 294.101 of the regulations which states that the section's reporting requirements are not subject to OMB approval. The reporting requirements in the regulations are subject to OMB approval under the Paperwork Reduction Act, and the note therefore is incorrect.

On October 5, 1984, the Commission issued a final rule in Order No. 401 making these reporting procedures permanent (49 FR 39,536 (Oct. 9, 1984)). The order was submitted to OMB at that time for approval of the reporting requirements and assignment of an OMB control number. However, the regulatory text in Order No. 401 failed to either change the title from interim to final or delete the note at the end of § 294.101 of the Commission's regulations. The note was applicable to the interim rule only, and not to the final rule.

The technical amendment clarifies that these reporting procedures are permanent and that OMB has reviewed and approved them.

These technical corrections are effective September 28, 1989.

List of Subjects in 18 CFR Part 294

Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, part 294, chapter I, title 18 of the Code of Federal Regulations is amended as set forth below.

Lois D. Cashell,

Secretary.

PART 294—PROCEDURES FOR SHORTAGES OF ELECTRIC ENERGY AND CAPACITY UNDER SECTION 206 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

1. The authority citation for part 294 continues to read as follows:

Authority: Public Utility Regultory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117; Federal Power Act, 16 U.S.C. 792 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O., 12,009 42 FR 40267; Administrative Procedure Act, 5 U.S.C. 553.

2. The heading for part 294 is revised to read as set forth above.

§ 294.101 [Amended]

3. The note at the end of § 294.101 is removed.

[FR Doc. 89-23500 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8259]

RIN 1545-AM99

Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8259, which was published in the **Federal Register** for Thursday, September 7, 1989 (54 FR 37098). The temporary regulations relate to real estate mortgage investment conduits.

FOR FURTHER INFORMATION CONTACT: Laura Ann M. Lauritzen, 202-566-6624 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections prescribe the manner in which an entity elects status as a real estate mortgage investment conduits (REMIC) for Federal income tax purposes and procedures to be followed when filing a Federal income tax return as a REMIC. The regulations also require REMICs and certain other issuers to file information returns with the Internal Revenue Service and to provide notice to holders of REMIC interests or other debt instruments to which section 1272(a)(6) applies of income and certain allocable expenses attributable to their interests. These provisions were added or amended by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988.

Need for Correction

As published, T.D. 8259 inadvertently omitted language and contains

typographical errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (T.D. 8259) which was the subject of FR Doc. 89-20917, is corrected as follows:

§ 1.6049-7 [Corrected]

1. On page 37105, column 2, § 1.6049-7T(e)(2)(x), first line, the first word "For" is removed and the language "Information required to compute the accrual of market discount including, for" is added in its place.

2. On page 37106, column 1, § 1.6049-7T(f)(2)(i)(G), first line, the language "For calendar years after 1989," is removed. In the second line, the first word "information" is removed and the word "Information" is added in its place. In the third line, the word "including:" is removed and a "." is added in its place followed by the language "For calendar years after 1989, this information includes:".

3. On page 37106, column 2, § 1.6049-7T(f)(2)(ii)(K), first line, the language "For calendar years after 1989," is removed. In the second line, the word "information" is removed and the word "Information" is added in its place. In the third line, the word "including:" is removed and a "." is added in its place followed by the language "For calendar years after 1989, this information includes:".

4. On page 37107, column 2, § 1.6049-7T(f)(7)(ii), fifth line, the word "within" is removed and the language "by the later of 45 days after the close of the calendar quarter for which the information was requested, or" is added in its place.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-23463 Filed 10-4-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

RIN 1218-AA20

[Docket No. S-301A]

Concrete and Masonry Construction Safety Standards

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Final rule, technical amendment.

SUMMARY: This rule corrects a technical error in OSHA's final rule for Concrete and Masonry Construction located in subpart Q of 29 CFR 1926.704(b). That final rule was published in the **Federal Register** on June 16, 1988 (53 FR 22612), and was subsequently incorrectly published in the 1988 edition of the Code of Federal Regulations (CFR). Both the **Federal Register** and the CFR contain the error. Both documents contain the word "should" in § 1926.704(b) instead of the word "shall." This rule corrects the error by changing the word "should" to "shall."

EFFECTIVE DATE: October 5, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, Room N3647, 200 Construction Avenue NW., Washington, DC 20210, telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION: On September 16, 1985, OSHA published a notice of proposed rulemaking in the **Federal Register** (50 FR 37543) proposing to amend its requirements in subpart Q addressing the hazards associated with concrete and masonry constuction. That notice contained a requirement in § 1926.706(a)(4)(i) which required, "* * * lifting inserts for tilt-up precast concrete members shall be capable of supporting at least two times the maximum intended load applied or transmitted to them."

On June 16, 1988, when the final rule for Concrete and Masonry Construction was issued in the **Federal Register** (53 FR 22612), OSHA discussed the above-mentioned provision in the Summary and Explanation Section (53 FR 22637). In its explanation, OSHA noted that the provision in § 1926.706(a)(4)(i) was being relocated to § 1926.704(b) and that the provision in the final rule was unchanged from the proposed rule. In response to the one comment received on the provision, OSHA clarified the provision by adding the words "which are embedded or otherwise attached to" after the words "lifting inserts;" otherwise the provision was the same as proposed. Further, in paraphrasing the regulation, OSHA also stated in its discussion of § 1926.704(b) that "Paragraph (b) specifies that lifting inserts which * * * to tilt-up wall panels must be capable of supporting twice the maximum intended load applied or transmitted to them." This language further indicates OSHA's intent that the requirement be viewed as mandatory. OSHA does not promulgate regulations using the term "should." Use of that term would render the provision unenforceable.

OSHA notes that the error occurred during the printing process. The document submitted by OSHA for publication contained the word "shall," however the word "should" was printed in the **Federal Register** on June 16, 1988, and in the CFR issued for July 1988.

Public Participation

In accordance with 5 U.S.C. 553(b)(3)(B), OSHA is waiving the opportunity for public comment because it finds good cause that comment is not necessary. This rule merely corrects an error that occurred in the printing of the **Federal Register** issued on June 16, 1988, and subsequently repeated in the Code of Federal Regulations.

Additionally, pursuant to 5 U.S.C. 553(d)(3), OSHA finds good cause for making the effective date of this rule the same date as its date of publication.

Signed at Washington, DC, this 29 day of September 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

Part 1926 of title 29 of the Code of Federal Regulations is amended as follows:

PART 1926—[AMENDED]

1. By revising paragraph (b) of § 1926.704 to read as follows:

§ 1926.7804 Requirements for precast concrete.

* * * * *

(b) Lifting inserts which are embedded or otherwise attached to tilt-up precast concrete members shall be capable of supporting at least two times the maximum intended load applied or transmitted to them.

* * * * *

[FR Doc. 89-23476 Filed 10-4-89; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-89-94]

Special Local Regulations for Marine Events; Seventh Annual Intra-Harbor Power Boat Regatta, Elizabeth River, Norfolk, Virginia and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of 33 CFR 100.501.

SUMMARY: This notice implements 33 CFR 100.501 for the Seventh Annual Intra-Harbor Power Boat Regatta. The event will be held on the Elizabeth River between the Norfolk and Portsmouth downtown areas. The special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective from 11:30 a.m. to 6:00 p.m., October 14, 1989. If inclement weather causes the postponement of the event, the regulations are effective from 11:30 a.m. to 6:00 p.m., October 15, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Portsmouth Power Boat Association has submitted an application on August 17, 1989 to hold the Seventh Annual Intra-Harbor Power Boat Regatta on October 14, 1989. The event was previously scheduled for July 16, 1989, but was cancelled due to inclement weather. The rescheduled powerboat regatta will be held in the vicinity of the "Waterside" area of downtown Norfolk, Virginia, and the "Portside" area of downtown Portsmouth, Virginia. This area is covered by 33 CFR 100.501 and generally includes the waters of the Elizabeth River between Town Point Park, Norfolk, Virginia, the mouth of the Eastern Branch of the Elizabeth River, and Hospital Point, Portsmouth, Virginia. Since this event is of the type contemplated by this regulation and the safety of the participants and spectators viewing this event will be enhanced by the implementation of special local regulations for the Elizabeth River, 33 CFR 100.501 will be in effect. Because vessels will be permitted to transit the regulated area between heats, commercial traffic should not be severely disrupted. In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007, and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 110.72aa. The implementation of 33 CFR 100.501 also implements regulations in 33 CFR 110.72aa and 117.1007. 33 CFR 110.72aa establishes the spectator anchorages in 33 CFR 100.501 as special anchorage areas under Inland Navigation Rule 30, 33 U.S.C. 2030(g). 33 CFR 117.1007 closes the draw of the Berkley Bridge to vessels during and for one hour before and after the effective period under 33 CFR 100.501, except that the Coast Guard Patrol Commander may order that the draw be opened for commercial vessels.

These regulations are implemented by publication of this implementing notice in the **Federal Register** and a notice in the Local Notice to Mariners.

Dated: September 27, 1989.

P. A. Welling,

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

[FR Doc. 89-23627 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 292

RIN 0596-AB08

Hells Canyon National Recreation Area; Management

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for public comment.

SUMMARY: This interim rule provides management standards and guidelines to ensure than the natural beauty, paleontological, historical, and archeological values of the Hells Canyon National Recreation Area, including the seventy-one mile segment of the Snake River between Hells Canyon Dam and the Oregon-Washington border, are protected. In addition the recreational and ecological values and public enjoyment of the area are enhanced as directed in the Hells Canyon National Recreation Area Act (Act).

The need for this interim rule results from a recent decision of the Ninth Circuit Court of Appeals which held that the Secretary of Agriculture must promulgate distinct and separate rules to govern the Recreation Area as directed by section 10 of the Act. The intended effect of these regulations is to provide a regulatory basis for managing the Federal lands within the Recreation Area consistent with the requirements of the Act and other laws and regulations applicable to National Forest System lands. In order to respond quickly to the court ruling and to continue an undisrupted program of land management, it is necessary to make this rule effective upon publication. However, public comment is invited on this interim rule and will be considered in promulgating a final rule.

DATES: This interim rule is effective October 5, 1989. Comments must be received by December 4, 1989.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2730), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this interim rule in the Office of the Director, Recreation Management Staff, Room 4229, South Agriculture Building, 14th and Independence, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m. To facilitate entry into the building, the public is requested to make arrangements for inspection in advance by calling (202) 447-2871.

FOR FURTHER INFORMATION CONTACT: John C. Anderson, Recreation Management Staff, (202) 447-2871, South Agriculture Building, 14th and Independence, SW., Washington, DC, or Elton Thomas, Environmental Affairs Staff, Pacific Northwest Region, 319 SW Pine St., Portland, Oregon, 97208, (503) 423-2322.

SUPPLEMENTARY INFORMATION:

Background

The Hells Canyon National Recreation Area was established by an Act of Congress (16 U.S.C. 460gg) on December 31, 1975. Section 8 of the Act required the development of a Comprehensive Management Plan (Plan) within 5 years of the enactment of the law, and section 10 directed the Secretary of Agriculture to promulgate rules as he deemed necessary to accomplish the purposes of the Act. The Forest Service interpreted the language of section 10 of the Act as granting rulemaking discretion to the Secretary, rather than compelling the Secretary to promulgate rules, and believed that the management direction to be developed through the Plan and already established in existing regulations would be adequate to manage the Recreation Area. In accordance with section 8, the Forest Service developed,

with full public involvement, a Comprehensive Management Plan for the Hells Canyon National Recreation Area. The Plan relied on existing regulations governing National Forest management in chapter II of title 36 of the Code of Federal Regulations to meet management objectives and standards for the Recreation Area. For example, management direction for wilderness in the Plan is based on the rules at 36 CFR parts 219 and 293 as well as the Wilderness provisions of the Act establishing the Recreation Area.

Recently, the 9th Circuit Court of Appeals, in *Oregon Natural Resources Council* v. *Lyng*, D.C. No. CV-88-680-PA, ruled that the Secretary must promulgate rules as specified in section 10 of the Act to address standards and guidelines for the protection and preservation of the historic, archeological, and paleontological resources, use and management of roads and trails, use and number of rivercraft, timber management, mining, range management, wildlife and fisheries, and other resources. In response, the Department is promulgating this interim rule. Because regulations are in place that adequately guide management of most of the resources of the Recreation Area, this rule does not repeat those rules but rather makes clear that these other rules apply to the Recreation Area. This approach is fully consistent with the Circuit Court's finding that section 10 "compels the Secretary to promulgate nonduplicative regulations" (Op., p. 20).

Section-by-Section Analysis

The interim rule establishes a new subpart F of part 292, Hells Canyon National Recreation Area in title 36 of the Code of Federal Regulations.

Section 292.40 establishes that the purpose of the rules is to govern the management of Federally-owned lands within the Recreation Area. It should be noted that the agency is developing and will propose at a later time separate rules governing private land uses within the Recreation Area as required by section 10 of the Act. In accordance with section 7 of the Act this section of the rules provides that the area will be managed in accordance with the rules of the subpart as well as other rules of title 36, chapter II, of the Code of Federal Regulations. This section lists the major existing rules that apply to Hells Canyon National Recreation Area management but makes clear that in event of any inconsistency between these rules and other existing rules, the rules of subpart F have precedence.

Section 292.41 sets forth definitions of terms used in this rule. The definitions of various silvicultural terms used in the rule are those found in Forest Service Manual section 2470.5, Amendment 148, 10/88, and "Terminology of Forest Science Technology Practices and Products" published by the Society of American Foresters (1971) which is the recognized basis for silvicultural terminology and definitions.

Section 292.42 provides direction for developing a Comprehensive Management Plan for the Recreation Area as required by section 8 of the Act. Because the Recreation Area is comprised of lands from 3 National Forests located in the States of Idaho and Oregon, it is necessary to assign administrative responsibility for preparing the plan. Thus, paragraph (1) of § 292.42 assigns the planning responsibility to the Forest Supervisor of the Wallowa-Whitman National Forest, in which the largest percentage of the Recreation Area is located.

Paragraph (b) sets forth the management objectives that the Comprehensive Management Plan must address. These objectives are a restatement of those set forth in section 7 of the Act itself, which have proven to be sufficiently comprehensive to guide the resource management planning for the Recreation Area. Therefore, there is no need to expand these objectives further in the rule.

Paragraph (c) of this section requires that the Plan establish the array, manner, and levels of resource use and enhancement and set forth the broad management direction for the area. It is not feasible or practical to establish the intensity, mix, and methods of resource use in regulation. These decisions must be based on site-specific data and consideration of various alternatives formulated in response to that data, as well as public review and involvement. Paragraph (c) also makes clear that management direction and practices identified in the Plan must be consistent with standards set forth in § 292.43 of the rule.

Because the Agency originally concluded that additional rules were not needed to govern the Hells Canyon National Recreation Area, the Agency proceeded to develop a Comprehensive Management Plan, which was adopted April 30, 1982. To avoid any question as to the status of that plan in light of the Ninth Circuit Court's Ruling, paragraph (d) asserts and directs that the Plan as adopted shall continue to guide the management of the area. This paragraph also brings the adopted plan into uniformity with other Agency-wide planning by directing that the Plan be incorporated as part of the Wallowa-Whitman National Forest Management Plan and that future revisions or amendments to the Hells Canyon Plan shall be made in accordance with the rules governing forest planning at 36 CFR part 219. This assures public involvement in any future revisions or amendments and assures the public that the Agency established land and resource management planning process will apply to such revisions. The Act itself did not address the need for and manner of revisions of the Comprehensive Management Plan; therefore, the provisions of the National Forest Management Act and implementing regulations at 36 CFR part 219 apply.

Section 292.43 establishes management standards for Federal land in the Recreation Area Comprehensive Management Plan. Consistent with the direction governing the plan in § 292.42, the rules of this section do not establish levels, intensities, types, and mixes of resource uses. Rather this section establishes baseline standards and guidelines for resource management within the Recreation Area which the plan must embrace. These guidelines are consistent with the broad management objectives contained in the Comprehensive Management Plan, which were adopted following full public involvement and comment and have proven to be adequate guidance for devising more specific direction for managing the area and for implementing specific project plans within the area.

(a) *Cultural Resources.* The Recreation Area contains a virtual storehouse of historic and prehistoric evidence of human occupation. Existing regulations at 36 CFR parts 36, 62, 63, 65, 68, 78, 296, and 800 are adequate to ensure full protection and preservation of historic, archeological, and paleontological resources within the Recreation Area. The interim rule does not replicate the requirements of these existing regulations but directs that the cultural resources of the Recreation Area be protected and preserved through inventorying cultural resources, recommending areas for listing on the National Register of Historic Places, monitoring and protecting known cultural resources from vandalism, conducting research of the cultural resources, and stabilizing, maintaining, and/or improving important historic sites.

(b) *Roads and Trails.* Section 10 of the Act requires that the rules include provisions for "control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal Land within the Recreation Area". Existing regulations at 36 CFR parts 212—Forest

Development Roads and Trails; 262—Prohibitions; and 295—Use of Motor Vehicles Off Forest Development Roads are adequate for establishing control of motorized and mechanical equipment. Moreover, transportation needs and uses within the Recreation Area must be identified and considered in the context of the overall management objectives for the Area as part of the comprehensive management planning. Accordingly, the interim rule does not specify the controls on use and type of vehicles but rather directs that the Recreation Area Ranger shall establish such controls as are necessary to meet the requirements of the Act, these regulations, and the management objectives of the Comprehensive Management Plan. In addition, consistent with the purposes for which the Recreation Area was established, paragraph (b) of this section gives emphasis to providing the public adequate and safe access to recreational and other sites. Finally, this section directs that alternative transportation routes may be developed to meet resource management objectives identified in the Comprehensive Management Plan.

(c) *Use and Number of Rivercraft.* Paragraph (c) directs that the use, type, and number of rivercraft shall be consistent with the purposes for which the area was established and shall be regulated through the management direction in the Plan and applicable rules of chapter II of title 36 of the Code of Federal Regulations. The interim rule specifically requires that the Plan address seasons of use and opportunities for outfitters and guide services.

(d) *Timber Management.* Section 7 of the Act directs the Secretary to manage the Recreation Area for public outdoor recreation in accordance with laws, rules, and regulations applicable to the National Forests and in a manner compatible with, among other objectives, management, utilization, and disposal of natural resources including "timber harvesting by selective cutting." Section 10 of the Act, as interpreted by the Ninth Circuit Court, directs the Secretary to include in the rules governing the area "standards for such management, utilization and disposal of natural resources, including, but not limited to, timber harvesting by selective cutting * * *"

Accordingly, paragraph (d) of § 292.43 of the interim rule sets forth two major guidelines for managing the timber resources of the Recreation Area; namely, that timber be managed—

(1) To perpetuate healthy stands of diverse tree species, size, and age classes, and

(2) To emphasize stand condition, scenery, wildlife habitat, and recreation needs over optimum wood fiber production.

The rule further provides that timber harvesting shall be by selection cutting methods and generally limits permitted silvicultural treatment to individual tree selection, group selection, sanitation, salvage, and intermediate cuts.

It should be noted that the language of section 10 of the Act refers to timber harvesting by "selective cutting." As defined by the Society of American Foresters, "selective cutting" is a type of exploitation cutting that removes only the largest and most valuable species from a stand. This practice, known as high grading, is inconsistent with the legislative history of the Act which clearly shows that Congress intended that timber be harvested selectively and not in an exploitive manner. Thus, the interim rule adopts the term "selection cutting" which is an uneven-aged cutting method which can involve cutting of individual trees and/or as small groups of trees.

It is also evident from the legislative history of the Act that Congress intended broader discretion for salvaging timber in unusual situations than the term "selection cutting" would ordinarily permit. The report of the Senate Energy Committee states: ". . . Where unusual situations exist, for example, in cases of fire, insect, disease, or wind-damaged timber, clearcutting is permitted to be practiced where its use would mitigate the situation. This is intended to be the exception rather than the rule". (S. Rept. No. 94–153, 94th Cong., 1st Sess., P. 5.). Accordingly, the interim rule adopts the language from Senate Report to permit clearcutting where this practice is determined to be the best timber harvest practice to mitigate resource deterioration or the spread of forest pests to adjacent stands of timber.

(e) *Mining.* The Act recognizes the exercise of valid existing mining rights within the Recreation Area and requires that the rules address mining. Because the Act withdrew the Recreation Area from further entry under the Mining Laws, paragraph (e) prohibits the Area Ranger from approving any application for location, entry, or patent of minerals under the U.S. Mining laws.

The interim rule incorporates the provision of the Act that allows the exercise of valid mining rights existing on the date of enactment and gives notice that such activity is subject to the Secretary's mining regulations at 36 CFR part 228. In exercising its authority to manage surface disturbing activities, the Forest Service will regulate mining activities to assure they are conducted in a manner consistent with the Act and so as not to preclude meeting the management objectives and direction of the rules or the Comprehensive Management Plan. Consistent with Agency policy (Forest Service Manual Title 2800), the Area Ranger will work cooperatively with mining operators to try to identify methods of operation that are compatible with the area's management.

(f) *Range Management.* Ranching and livestock grazing are traditional uses within the Recreation Area. The Act recognizes these uses and provides for grazing under existing regulations at 36 CFR, 219.20 and part 222 to the extent compatible with the administrative provisions of section 7 of the Act.

(g) *Wildlife and Fisheries.* Hells Canyon National Recreation Area contains important resident and anadromous fisheries and provides habitat for a variety of wildlife. Section 7 of the Act directs the Secretary to administer the Area to provide for protection and maintenance of fish and wildlife habitat and section 12 recognizes hunting and fishing pursuant to Federal and State laws as a recognized use. Accordingly, paragraph (g)(1) establishes broad management standards to emphasize diversity of wildlife habitat for game and nongame species, to enhance opportunities for survival and increase of threatened and endangered species, and to provide public enjoyment of the protection of wildlife.

In addition, section 12 of the Act provides discretion for the Secretary to designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration or public use and enjoyment. Paragraph (g)(2) of this section of the interim rule authorizes the Forest Supervisor to designate zones and periods when hunting and fishing shall not be permitted.

(h) *Other Resources.* There are many other forest resources and values that must be addressed in managing the Recreation Area. The Act does not require that rules address these other resources and existing law, regulations, and policy are adequate to guide their management. Accordingly, this paragraph of this interim rule merely recognizes the need to address additional resource values and uses through the Comprehensive Management Plan.

Need for Interim Rule

The Secretary of Agriculture is promulgating this interim rule based on a finding resulting from a legal action filed against the Secretary for a salvage timber sale. This timber sale, Duck Creek, was to salvage dead and dying timber from a spruce bark beetle infestation. The Forest Supervisor made a finding of No Significant Impact and issued a Decision Notice to advertise and award the timber sale. After unsuccessfully pursuing administrative appeals to stop the sale, the appellants filed suit in the U.S. District Court for the District of Oregon, *Oregon Natural Resources Council* v. *Lyng*, alleging that the Forest Service had violated the National Environmental Policy Act (NEPA), and the Clean Water Act, and that the Secretary had violated the Hells Canyon National Recreation Area Act by failing to promulgate rules as required by section 10 of the Act. Following a trial on the merits held July 7, 1988, the District Court found for the Forest Service by finding the proposed sale was in accordance with applicable law.

On appeal by the plaintiffs, the Ninth Circuit Court of Appeals, affirmed the District Court's finding with regard to the National Environmental Protection and Clean Water Acts. However, the Court ruled that the Secretary did not have the discretion not to promulgate rules under section 10 of the Act, and that the language of the Act compelled the Secretary to promulgate rules to govern both the Federal lands and private lands use of the Recreation Area.

As a result of the Court's ruling, regulations issued under section 10 of the Act are necessary to permit ongoing activities, particularly timber sales, to continue without disruption. Salvage timber sales are particularly affected due to rapid deterioration of timber damaged by fire and insects. Approximately 34 million board feet of timber is awaiting immediate harvest. This timber was prepared for sale due to fire and insect damage and, if not marketed within the next few weeks, will lose considerable value or deteriorate to the extent that it is not salvageable. Accordingly, there is an urgent need to promulgate these rules as an interim rule. The time required to publish a proposed rule for public comment prior to adoption of a final rule would create a managerial hiatus and could lead to further legal challenge and uncertainty over the sales, resulting in serious disruption of the ongoing management activities. Therefore, there is good cause for publishing these rules as interim rules without opportunity for public comment. However, public comment is invited on the interim rule and will be considered in adoption of the final rule.

Environmental Impact

This interim rule is promulgated in accordance with section 10 of the Hells Canyon National Recreation Area Act, (16 U.S.C. 460gg). The potential environmental impact of management direction (and of six alternative management plans) for the area were analyzed and disclosed in the environmental impact statement for the Comprehensive Management Plan that was transmitted to the Environmental Protection Agency on May 28, 1981. A review of this rule indicates no potential for significant effect on the quality of the human environment other than that previously disclosed in the environmental impact statement. The environmental consequences of any future projects will be subject to Forest Service National Environmental Policy Act procedures. Therefore, no additional environmental documentation is deemed needed on this rule.

Regulatory Impact

This interim rule has been reviewed under Department of Agriculture procedures implementing Executive Order 12291 on Federal Regulations. It has been determined that this is not a major rule. The rule itself will not have an effect of $100 million or more on the economy, substantially increase prices or costs for consumer, industry, or State or local governments, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets.

This rule has been considered in light of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and it has been determined that this action will not have a significant economic impact on a substantial number of small entities.

This rule will not result in additional paperwork not already approved for use. Therefore, the review provision of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and implementing regulations at 5 CFR part 1320 do not apply.

This rule has been determined not to have taking implications for private property for purposes of Executive Order 12630 concerning "Government Actions and Interference With Constitutionally Protected Property Rights."

List of Subjects in 36 CFR Part 292

Recreation, Recreation areas.

Therefore, for the reasons set forth in the preamble, part 292 of chapter II of title 36 of the Code of Federal Regulations is hereby amended by establishing a new Subpart F to read as follows:

PART 292—NATIONAL RECREATION AREAS

Subpart F—Hells Canyon National Recreation Areas

Sec.
292.40 Purpose and scope.
292.41 Definitions.
292.42 Comprehensive management plan.
292.43 Management standards and guidelines.

Authority: Sec. 10, Public Law 94–199 (16 U.S.C. 460gg–7); 16 U.S.C. 551; 16 U.S.C. 1281(d).

Subpart F—Hells Canyon National Recreation Area

§ 292.40 Purpose and scope.

(a) The rules of this subpart govern management of the National Forest System lands that comprise the Hells Canyon National Recreation Area located in the Wallowa-Whitman, Nezperce, Payette National Forests in the States of Idaho and Oregon as established by the Act of December 31, 1975, as amended (89 Stat. 1117; 16 U.S.C. 460gg).

(b) Other rules of this chapter that govern management of National Forest System lands and resources, as well as direction issued through the Forest Service Manual and Handbooks (36 CFR part 200), also apply to management of the Recreation Area. Specifically, the resources of the Recreation Area shall be managed in accordance with the rules of this title, including, but limited to:

(1) 36 CFR part 212—Administration of the Forest Development Transportation system.

(2) 36 CFR part 219—Planning.

(3) 36 CFR part 222—Range Management.

(4) 36 CFR part 223—Sales and disposal of National Forest System Timber.

(5) 36 CFR part 228—Minerals.

(6) 36 CFR part 241—Wildlife.

(7) 36 CFR part 293—Wilderness-Primitive Areas.

(8) 36 CFR part 297—Wild and Scenic Rivers.

(9) 36 CFR part 296—Protection of Archaeological Resources: Uniform Regulations.

(10) 36 CFR part 800—Protection of Historic and Cultural Properties.

(c) In the event of conflict or inconsistency between rules of this subpart and other rules within this title, the rules of this subpart shall take precedence to the extent permitted by law.

§ 292.41 Definitions.

"Act" means the Act of December 31, 1975, as amended (89 Stat. 1117) which established the Hells Canyon National Recreation Area.

"Area Ranger" is the Forest Service line officer given administrative responsibility for the Hells Canyon National Recreation Area. The Area Ranger reports to the Forest Supervisor of the Wallowa-Whitman National Forest.

"Clearcutting" is an even-aged cutting method in which the entire standing crop of trees from an area is removed at one time.

"Group selection" is an uneven-aged cutting method in which small groups of trees, usually no more than 2 acres in size, are removed to meet a predetermined goal of size distribution and species in the remaining stand.

"Intermediate cutting" is a cutting which removes trees from a stand between the time of its formation and the regeneration cut.

"Individual tree selection" is an uneven-aged cutting method in which selected trees from specified size or age classes are removed over the entire stand area to meet a predetermined goal of size or age distribution and species composition in the remaining stand.

"Plan" means the Comprehensive Management Plan for the Hells Canyon National Recreation Area.

"Recreation area" means the Hells Canyon National Recreation Area.

"Salvage cutting" is an intermediate cutting made to remove trees that are dead or in imminent danger of being killed by injurious agents.

"Sanitation cutting" is an intermediate cutting made to remove dead, damaged, or susceptible trees to prevent the spread of pests or pathogens.

"Selection cutting" is an uneven-aged cutting method which entails the annual or periodic removal of trees individually or in small groups.

§ 292.42 Comprehensive Management Plans.

(a) The Forest Supervisor of the Wallowa-Whitman National Forest shall prepare a Comprehensive Management Plan to guide management of the Recreation Area.

(b) The Plan shall provide broad direction for administration of the area for public outdoor recreation in a manner compatible with the following objectives:

(1) The maintenance and protection of the free-flowing nature of the rivers within the recreation area;

(2) Conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) Preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) Protection and maintenance of fish and wildlife habitat;

(5) Protection of archaeological and paleontological sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) Preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) Management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to timber harvesting by selection cutting, mining, and grazing and the continuation of such existing uses and developments to the extent that such uses are compatible with the provisions of the Act.

(c) The Plan shall establish the array, levels, and manner of resource use within the Recreation Area. Management direction and practices identified in the Plan shall be consistent with the standards and guidelines set forth in § 292.43 of this subpart.

(d) The Plan adopted May 23, 1981, shall continue to guide management of the area and shall be incorporated as part of the Wallowa-Whitman National Forest Land and Resource Management Plan. Any revision or amendments to the Plan shall be carried out in accordance with the rules of 36 CFR part 219.

§ 292.43 Management standards and guidelines.

The Recreation Area shall be managed in accordance with the following standards for the preservation and protection of the natural, scenic, historic, pastoral, timber, fish, and wildlife values and enhancement of the recreation values of the area:

(a) *Cultural resources.* Historic, archaeological and paleontological resources of the area shall be preserved and protected by:

(1) Developing and maintaining inventories of these resources;

(2) Recommending areas deemed suitable for listing with the National Register of Historic Places;

(3) Monitoring and protecting known cultural resources from vandalism;

(4) Conducting or authorizing archaeological, paleontological, and historic research; and

(5) Stabilizing, maintaining, and/or restoring important historic sites.

(b) *Use and managmeent of roads and trails.* Adequate and safe access to identified recreational and other sites shall be provided for the enjoyment of the public. Existing roads and trails may be upgraded and improved as necessary to ensure public safety and prevent unacceptable resource damage. Alternative transportation routes may be developed to meet identified resource management objectives in the Comprehensive Management Plan. Consistent with the rules at 36 CFR parts 212, 261, and 293, the Area Ranger shall establish such control on use and types of motorized vehicles and mechanical equipment as is necessary to meet the requirements of the Act, applicable regulations, and the management direction in the Plan.

(c) *Use and number of rivercraft.* The use, type, and number of rivercraft on rivers within the Recreation Area shall be regulated through the management direction established in the Plan and other applicable rules of this chapter. The Plan shall address seasons of use and opportunities for outfitter and guide services.

(d) *Timber management.* (1) The timber resources within the Recreation Area shall be managed to perpetuate healthy stands of diverse tree species and size and age classes and to emphasize stand condition, scenery, wildlife habitat, and recreation needs, except as provided for in (d)(2) of this section. Timber harvesting for utilization and disposal of forest products shall be by selection cutting methods. Permitted silvicultural treatments generally shall be limited to individual tree selection, group selection, sanitation, salvage, and intermediate cuttings.

(2) Where timber has been damaged by fire, insect, disease, or wind, clearcutting is permitted where its use would mitigate the situation.

(e) *Mining.* Subject to valid existing rights as of December 31, 1975, the Recreation Area is withdrawn from location, entry, or patent of minerals under the federal mining laws. Valid mining activity existing as of December 31, 1975, may continue under regulation at 36 CFR part 228. Insofar as

practicable, permissible mining activities shall be regulated to assure that they are conducted in a manner which will best assure the purposes for which the Recreation Area was established.

(f) *Range management.* Ranching and grazing in existance on December 31, 1975 are traditional and valid uses of the Recreation Area. Consistent with these uses, range resources in the Recreation Area shall be managed in accordance with existing regulations at 36 CFR parts 219.20 and 222 in a manner compatible with the purposes for which the area was established and administered as defined in section 7 of the Act.

(g) *Wildlife and fisheries.* (1) Management of wildlife and fisheries resources within the Recreation Area shall:

(i) Maintain or enhance wildlife habitat for non-game and game species by emphasizing diversity of habitat;

(ii) Enhance opportunities for threatened and endangered species to survive and increase in numbers; and,

(iii) Provide for public enjoyment and for protection of wildlife.

(2) As provided by section 12 of the Act (16 U.S.C. 460gg-9), the Forest Supervisor may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration of the area, or public use and enjoyment.

(h) *Other resources.* The Plan shall establish management direction and standards for wilderness, soil and water, wild and scenic rivers, developed recreation, and other values and resources of the Recreation Area consistent with the Act and other applicable laws, orders, and regulation.

Dated: September 29, 1989.

Jack C. Parnell,

Deputy Secretary.

[FR Doc. 89-23634 Filed 10-4-89; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3647-7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending an error in the regulatory text that was published in the **Federal Register** on September 27, 1984. That notice approved a revision to the Missouri State Implementation Plan involving start-up, shutdown, and malfunction conditions.

EFFECTIVE DATE: October 5, 1989.

FOR FURTHER INFORMATION CONTACT: Carol LeValley, EPA Region VII Air Branch, at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION: EPA published a final rulemaking in the **Federal Register** (45 FR 27932) on May 22, 1981, involving provisions for start-up, shutdown, and malfunction conditions. In this rulemaking an error was made in the sentence "Included in the plan * * *." In this sentence a reference was made to Missouri rule 10 CSR 10-4.050; the rule should have been 10 CSR 10-5.050. This error was corrected by amending 40 CFR 52.1320(c)(27) in a final rulemaking published in the **Federal Register** (49 FR 38103) on September 27, 1984.

When this notice was published on September 27, 1984, some of the narrative language published in the original rulemaking was inadvertently deleted. Today's notice reinstates the deleted material. This amendment does not change the substantive requirements of the approved plan.

Dated: August 29, 1989.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR Part 52, Subpart AA, is amended as follows:

Subpart AA—Missouri

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

Authority: 42 U.S.C. 7401—7642.

2. Section 52.1320 is amended by revising paragraph (c)(27) to read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(c) * * *

(27) On September 5, 1980, the state of Missouri submitted a plan revision which involved provisions for start-up, shutdown, and malfunction conditions. Included in the plan are new Missouri Rule 10 CSR 10-6.050, Start-up Shutdown, and Malfunction Conditions; and revisions to Rule 10 CSR 10-6.020, Defintions and Amended Start-up, Shutdown and Malfunction Provisions in Rules 10 CSR 10-2.030, 10-3.050, 10-3.060, 10-3.080, 10-4.030, 10-4.040, and 10-5.050.

[FR Doc. 89-21960 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 52, 81

[FRL-3636-8]

Approval and Promulgation of State Implementation Plans, North Dakota; Visibility Protection; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

SUMMARY: In this action, EPA is approving the general plan requirements and the long-term strategy (LTS) for visibility protection in North Dakota's mandatory Class I federal areas in a revision to the North Dakota State Implementation Plan (SIP). This action is a result of the November 24, 1987, (52 FR 45132) rulemaking at which EPA disapproved North Dakota's SIP for failing to comply with the provisions of 40 CFR 51.302 (visibility general plan requirements) and 51.306 (visibility LTS). EPA also incorporated these federal plans and regulations into North Dakota's SIP.

The Governor of the State of North Dakota submitted a SIP revision on April 18, 1989. The revision: (1) Established new and revised existing New Source Performance Standards, (2) updated existing State rules (including Prevention of Significant Deterioration regulations) and control strategies to address PM-10, and (3) added a control strategy to address visibility protection. This action only addresses visibility protection; the other portions of the submittal will be addressed in separate actions.

Review of the visibility protection plan indicates that North Dakota has met the criteria of 40 CFR 51.302 and 51.306, and that these revisions will replace the federal visibility regulations of 40 CFR 52.29 in the North Dakota SIP.

Also in this action, EPA is revising 40 CFR 81.423 to reflect that Theodore Roosevelt National Memorial Park was renamed Theodore Roosevelt National Park.

DATES: This action will be effective on December 4, 1989, unless notice is received by November 6, 1989, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the State submittal are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.
Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael Silverstein, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1769, (FTS) 564-1769.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act, 42 U.S.C. 7491, requires visibility protection for mandatory Class I federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I federal areas" (hereinafter Class I areas) are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400-81.437.) Section 169A specifically requires EPA to promulgate regulations requiring certain states (including North Dakota) to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 FR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981. (See 45 FR 80091, codified in 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the court stayed the litigation, pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. Distrit Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110(c) of the Act to promulgate Visibility SIPs. A negotiated Settlement Agreement between EPA and EDF required EPA to determine the adequacy of state Visibility SIPs to meet the general plan requirements including implementation control strategies (40 CFR 51.302), integral vista protection (40 CFR 51.302-307), and long-term strategies (LTS) (40 CFR 51.306). The Settlement Agreement required EPA to propose and promulgate federal Visibility SIPs (hereinafter Federal Implementation Plans (FIPS)) to remedy any deficiencies on a specified schedule. On January 23, 1986 (51 FR 3046), EPA preliminarily determined that the SIPs of 32 states (including North Dakota) were deficient with respect to the above mentioned visibility provisions.

The EPA and the plantiffs negotiated revisions to the Settlement Agreement which extended the deadlines for proposing FIPs to remedy the deficiencies. Under this revised Agreement, EPA must propose and promulgate FIPs to address the deficiencies relating to the general plan requirements and LTS, and can defer proposing and promulgating FIPs to remedy deficiencies related to impairment which the Federal Land Managers (FLMs) have certified to EPA.

On March 12, 1987 (52 FR 7802), EPA proposed to disapprove the SIPs of 32 states (including North Dakota) for failing to meet the general plan and LTS requirements of 40 CFR 51.302 and 51.306, and to incorporate these federal regulations into each state's SIP. The states were given the opportunity to avoid promulgation if they submitted SIP revisions to EPA by August 31, 1987.

On November 24, 1987, EPA disapproved SIPs for states (including North Dakota) which failed to meet the requirements of 40 CFR 51.302 and 51.306. EPA also incorporated these federal regulations (40 CFR 52.29) into the SIPs of these states.

On March 8, 1988, North Dakota submitted to EPA a draft Visibility SIP for review. EPA's May 6, 1988, response to the State included comments that identified two problems with the draft SIP: (1) The FLM/State coordination and control strategy requirements of 40 CFR 51.302 were not addressed, and (2) the State's description of the Class I areas was not consistent with 40 CFR 81.423.

On April 18, 1989, North Dakota submitted a SIP revision that includes a new "Section 3.7, Control Strategy: Visibility" in Chapter 3 of the Implementation Plan for the Control of Air Pollution (hereinafter "Section 3.7") to comply with the federal provisions of 40 CFR 51.302 and 51.306. North Dakota has chosen not to protect integral vistas from visibility impairment at this time. However, the submittal meets the integral vista requirements of 40 CFR 51.304.

In response to EPA's May 6, 1988, comments, North Dakota included language in the SIP submittal to adequately address the FLM/State coordination requirements of 40 CFR 51.302. Also, EPA retracts the comment that the State did not include the necessary control strategy provisions of 40 CFR 51.302; the State only has to set-up the process to assess and address visibility impairment, which it has accomplished in the LTS. Concerning the issue of consistency with 40 CFR 81.423, the State's listing of the Class I areas (see below) provides the public with a detailed description of the Class I areas presented in 40 CFR 81.423, which EPA finds acceptable.

Affected Areas

The following areas in North Dakota are Class I areas where visibility is an important value:

The Theodore Roosevelt National Park—South Unit;
The Theodore Roosevelt National Park—Elkhorn Ranch Unit;
The Theodore Roosevelt National Park—North Unit;
A portion of the Lostwood National Memorial Wildlife Refuge—The Lostwood National Wilderness Area.

These are listed in 40 CFR 81.423 as follows:

Theodore Roosevelt National Park;
Lostwood National Wildlife Refuge.

EPA is taking this opportunity to revise 40 CFR 81.423 to read as follows:

Theodore Roosevelt National Park;
Lostwood National Wildlife Refuge.

Theodore Roosevelt National Memorial Park was re-named "Theodore Roosevelt National Park" on November 10, 1978.

General Plan Requirements

A. Requirements

The visibility regulations provide general plan requirements for Visibility SIPs. The general plan requirements of 40 CFR 51.302(c) require that the SIPs include: (1) An assessment of visibility impairment and a discussion of how each element of the plan relates to the national goal; (2) emission limitations, or other control measures, representing best available retrofit technology (BART) for certain sources; (3) provisions to protect integral vistas; (4) provisions to address any existing impairment certified by the FLM; and (5) an LTS (10 to 15 years) for making reasonable progress toward the national goal.

The North Dakota Visibility SIP reiterates these general plan requirements throughout Section 3.7, with the exception of "3) provisions to protect integral vistas." Since the State has not listed integral vistas in North Dakota, the State need not address the mechanisms necessary to protect integral vistas from impairment at this time.

B. Control Strategies

The regulations establish the following process for developing control strategies to remedy existing impairment. First, the State or the FLM identifies the Class I areas where visibility impairment exists. The regulations require the States to address in the SIP any impairment which has been certified at least six months prior to SIP submittal. (See 40 CFR 51.302(c)(4).)

In identifying existing facilities which cause or contribute to the visibility impairment, the regulations require the State to adopt control strategies only to remedy impairment which has been reasonably attributed to a specific source or group of sources. Although the FLMs may provide the State with a list of sources suspected of causing any existing impairment in the certification, the responsibility of identifying sources is the State's. (See 45 FR 80086, col. 3 and 40 CFR 51.302(c)(4)(i).)

The State is required to perform a BART analysis for any existing stationary facility which has been identified as causing impairment in a Class I area. The State determines BART on a case-by-case basis taking into account the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, the remaining useful life of the source, and the degree of improvement that can be anticipated to result from the use of the controls. The State must adopt emission limitations representing BART which must be installed as expeditiously as practical, but no later than five years from SIP approval. (See 40 CFR 51.302(c)(4).)

The State is not required to adopt emission limitations representing BART if, for example, retrofit controls do not exist or are not anticipated to result in improvements in visibility. (See 45 FR 80087, col. 1.) However, if a source has not been subject to BART because control technologies do not exist, and, if the Administrator determines that new technologies are available which would more effectively control that pollutant, the State must re-analyze for BART at that time. (See 40 CFR 51.302(c)(4)(v).)

The regulations do not specify methods other than visual observation for characterizing visibility impairment. However, if a state is to adequately and timely address existing visibility impairment, a thorough characterization may be necessary. The EPA is aware that it, or the State, may find that the impairment cannot be attributed to specific sources and therefore cannot be addressed under the existing visibility regulations. (See 52 FR 7804, col. 1.) A thorough characterization is important when a BART analysis is conducted so that the anticipated improvements in visibility may be estimated. The State or EPA may find that the impairment is attributable to minor stationary sources or to emissions from prescription fires. In these cases, the need for a control strategy to remedy the impairment is assessed as part of the LTS rather than BART. (See 52 FR 7804, col. 1.)

Even though visibility impairment due to a source or small group of sources has not been identified in North Dakota's Class I areas, the North Dakota Visibility SIP contains provisions in Section 3.7 which address the above control strategies. (A significant amount of detail on the development of federal control strategies is contained in 52 FR 7802 (March 12, 1987).)

C. Assessment of Visibility Impairment

The EPA reviewed the information provided by the Department of Interior (DOI) to determine if impairment (1) appeared to occur in North Dakota's Class I areas, and (2) if impairment was a type which may be traceable to specific sources. The information provided by the FLMs indicated that no Class I area in North Dakota is experiencing visibility impairment which may be traceable to specific sources.

The EPA is aware that the FLMs may in the future provide additional information on this impairment which would allow EPA or a state to attribute it to a specific source. In such cases, Section 3.7 commits North Dakota to review the information under the procedure described above and in the periodic review of the LTS discussed below.

Long-term Strategy

A. Requirements

The regulations require that the LTS be a 10 to 15 year plan for making reasonable progress toward the national goal. The LTS must cover any existing impairment that the FLM certified at least six months before plan submission. A LTS must be developed which covers each Class I area within the State and each Class I area in another state that may be affected by sources within the State. The strategy must be coordinated with existing plans and goals for a Class I area including those of the FLMs. The strategy must state with reasonable specificity why it is adequate for making reasonable progress toward the national goal. The LTS and SIP must provide for review of the impact of new sources as required by 40 CFR 51.307.

The State must consider at a minimum the following six factors in the LTS:

1. Emission reductions due to ongoing air pollution control programs;

2. Additional emission limitations and schedules for compliance;

3. Measures to mitigate the impacts of construction activities;

4. Source retirement and replacement schedules;

5. Smoke management (techniques for agricultural and forestry management purposes including such plans as currently exist within the State for these purposes); and

6. Enforcement for emission limitations and control measures.

The State must commit to periodic review for the SIP on a schedule not less frequent than every three years. A periodic report must be developed in consultation with the FLMs and must contain the following:

1. Progress achieved in remedying existing impairment;

2. The ability of the LTS to achieve reasonable progress toward the national goal;

3. Any change in visibity conditions since the last report or since plan approval;

4. Additional measures, including the need for SIP revisions, that may be necessary to achieve progress toward the national goal;

5. The progress achieved in implementing Best Available Retrofit Technology (BART) and meeting other schedules laid out in the LTS to remedy existing impairment; and

6. The impact of any BART exemption granted.

The North Dakota Visibility SIP includes provisons which address these federal LTS requirements listed above throughout Section 3.7. Additional information concerning the federal LTS requirements is contained in 52 FR 7802 (March 12, 1987).

B. Remedies

The existing visibility regulations are designed to address impairment which can be traced to specific sources. Although visibility impairment which is reasonably attributable to a source or small group of sources has not been identified by the EPA, State, or FLMs in North Dakota, the federal LTS establishes a mechanism to address any additional impairment which may be certified in the future. Although EPA intends for these discussions to be the federal remedy, North Dakota must develop its own LTS when developing the Visibility SIP.

1. Ongoing Air Pollution Control Programs

The regulations require that each LTS provide for the review of the potential impact on visibility of new major stationary sources or major modifications in accordance with 40 CFR 51.307. The regulations further require that each SIP contain a discussion of the effect of ongoing air pollution control programs on remedying existing and preventing future impairment of visibility.

The North Dakota Visibility SIP has met these requirements. EPA approved the North Dakota NSR program for visibility protection on September 28, 1988 (53 FR 37757), and North Dakota discusses its ongoing programs in Section 3.7 of the SIP. These ongoing programs include:

(a) The review of major stationary sources that are subject to the State's Prevention of Significant Deterioration of Air Quality Rules (PSD);

(b) Inspecting sources that could potentially affect visibility in Class I areas to ensure that the required air pollution control equipment is operating and to ensure that allowable emission limits are not being exceeded;

(c) Enforcement of the State's open burning regulations;

(d) Encouraging the processing of natural gas to remove sulfur from oil wells that are currently flaring in the vicinity of Class I areas;

(e) Enforcement of the State's ambient air quality standards for sulfur dioxide, particulate matter, nitrogen dioxide, and hydrogen sulfide;

(f) Controlling fugitive emissions, through permit conditions, during construction activities; and

(g) Developing BART rules should any existing impairment be identified.

2. Smoke Management Practices

The FLMs have not specifically identified smoke from prescribed fires as a cause of visibility impairment in North Dakota's Class I areas. North Dakota currently regulates controlled or "open" burning in Chapter 33-15-04 of the North Dakota Air Pollution Control Rules (NDAPCR). North Dakota prohibits open burning for agriculture and forest management practices and the disposal of liquid hydrocarbons, if the burning would have an adverse impact on visibility in Class I areas.

3. Future Certifications of Impairment

Under the revised Settlement Agreement, EPA must address existing deficiencies in Visibility SIPs. Thus, EPA has only addressed the certifications of impairment in Class I areas made by the FLMs prior to June 1, 1988. The EPA is aware, however, that information may become available which indicates the existence of additional visibility impairment within the Class I areas or which may allow EPA or the State to attribute impairment to a specific source which could not be addressed at this time. A discussion of how any future impairment will be addressed may be found in 40 CFR 51.302(c). North Dakota has committed in Section 3.7 to address any future visibility impairment identified by a FLM or the State through: (a) The NSR program, (b) the enforcement of emission limits and ambient air quality standards, and (c) the 3-year periodic review process.

4. Existing Visibility Impairment

Because the FLMs have not identified existing visibility impairment in any of North Dakota's Class I areas, discussions related to source impact (such as additional emission limitations, source retirement and replacement, construction activities, and enforceability of emission limitations) are not required in the SIP at this time. North Dakota, however, discusses source impact mitigation measures in Section 3.7, which include:

(a) Emission reductions due to ongoing air pollution control activities;

(b) Additional emission limitations and schedules for compliance;

(c) Measures to mitigate the impacts of construction activities;

(d) Source retirement and replacement schedules;

(e) Smoke management techniques; and

(f) Enforcement of emission limitations and control measures.

North Dakota has also committed to develop BART rules should any existing impairment [due to a source or small group of sources] be identified in a Class I area.

5. Periodic Review

EPA regulations require that the LTS be reviewed and revised, if necessary, every three years. During this review, the results of any monitoring program will be considered, the FLMs will be consulted, and a report will be prepared which discusses the progress toward the national goal. North Dakota has committed to this three-year periodic review of the LTS.

Final Action: The April 18, 1989, submittal by the Governor of North Dakota includes the visibility general plan and long-term strategy requirements of 40 CFR 51.302 and 51.306 and the criteria discussed in 52 FR 45132 (November 24, 1987). (See March 12, 1987 (52 FR 7802), for additional information.) The State commits to a review of the Visibility SIP every three years, making any changes deemed necessary. The SIP, therefore, has established the commitment to review the visibility requirements listed in 40 CFR Part 51 Subpart P—Protection of Visibility. The approval will replace the federal plans and regulations of 40 CFR 52.29 (visibility long-term strategies) in the North Dakota SIP.

EPA hereby approves the revisions to the North Dakota Visibility SIP for the general plan requirements and the long-term strategies.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of the **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective December 4, 1989.

EPA finds good cause exists for making the action taken in this notice immediately effective because the implementation plan revisions are already in effect under State law or regulation, and EPA's approval poses no additional regulatory burden.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by (60 days from publication). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

List of Subjects

40 CFR Part 52

Air pollution control, Particulate matter.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 14, 1989.

Jack McGraw,

Regional Administrator.

Parts 52 and 81 chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart JJ—North Dakota

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1831 is revised to read as follows:

§ 52.1831 Visibility protection.

A revision to the SIP was submitted by the Governor on April 18, 1989, for visibility general plan requirements and long-term strategies.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

§ 81.423 [AMENDED]

4. Section 81.423 is revised as follows:

Area name	Acreage	Public Law establishing	Federal land manager
Lostwood Wild.	5,557	93–632	USDI–FWS.
Theodore Roosevelt, NP.	69,675	80–38	USDI–NPS.

[FR Doc. 89–23514 Filed 10–4–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 2F2623, 3F2824, and 4F2986/R1038; FRL 3656–5]

Pesticide Tolerances for Cypermethrin; Extension of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, extension of tolerance.

SUMMARY: This rule extends tolerances for the residues of the synthetic pyrethroid insecticide cypermethrin in or on certain raw agricultural commodities. This regulation to extend the effective date for tolerances for maximum permissible levels of residues of cypermethrin in or on these commodities was requested by ICI Americas, Inc. (ICI), and FMC Corp. (FMC).

EFFECTIVE DATE: Effective on October 5, 1989.

ADDRESS: Written objections, identified by the document control number [PP 2F2623, 3F2824, and 4F2986/R1038], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT:

George T. LaRocca, Product Manager (PM) 15, Registration Division (H7504C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2400).

SUPPLEMENTARY INFORMATION: Pursuant to petitions from FMC and ICI, EPA issued final rules establishing/extending tolerances for residues of the insecticide cypermethrin in or on (1) cottonseed at 0.5 ppm, meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep, and milk at 0.05 ppm; (2) pecans at 0.05 ppm; and (3) lettuce (head) at 10.0 ppm (see the **Federal Register** of June 15, 1984 (49 FR 24864) as amended in the **Federal Registers** of February 21, 1985 (50 FR 7172), September 27, 1985 (50 FR 39100), April 30, 1986 (51 FR 16032), and February 24, 1988 (53 FR 5375), respectively).

To be consistent with conditional registrations for cypermethrin on cotton, pecans, and lettuce, which are due to expire December 31, 1988, the Agency established these tolerances with an expiration date of December 1, 1989, to cover residues expected to be present from use during the period of conditional registration. One of the conditions of registration was the submission of a filed study (pond study) to determine the effect of cypermethrin on aquatic life. This study is required for all agricultural use patterns of cypermethrin.

In the **Federal Register** of March 23, 1989 (54 FR 12011), EPA announced its January 3 decision to grant ICI and FMC new conditional registrations for products containing cypermethrin for use on cotton, pecans, and lettuce for a period which extended to June 15, 1989. That document set forth EPA's evaluation of data that had been submitted, the product's regulatory history, and other relevant facts about cypermethrin. The Agency issued the new conditional registrations for this short period of time to ICI and FMC in light of their agreement to:

1. Submit all data generated in the course of the cypermethrin Alabama pond study pertaining to runoff and residues in water and sediment to the Agency by January 15, 1989.

2. Submit all other data in existence and not previously submitted to the Agency, as well as all data generated in the future in the course of the cypermethrin Alabama pond study, as soon as possible.

3. Conduct an aquatic mesocosm study (a simulated 2-year field study) for which EPA would develop and provide the protocol no later than April 15, 1989, provided ICI/FMC could not persuade EPA that the current cypermethrin pond study was acceptable.

4. Within 30 days of receipt of an EPA protocol for an aquatic mesocosm study, provide the Agency with written unconditional acceptance of the protocol and an unconditional commitment to conduct the study through completion. For any modification of the protocol to be valid it must be agreed to by EPA within the above mentioned 30-day period. The Agency reviewed the additional information on the pond study, reaffirmed its conclusion regarding the study's inadequacy, and determined that the aquatic mesocosm study would be necessary.

On May 8, 1989, FMC and ICI provided the Agency with written unconditional acceptance of the protocol and an unconditional commitment to conduct the mesocosm study through completion. On the basis of this unconditional commitment to conduct the aquatic mesocosm study, the Agency is issuing new conditional registrations for products containing cypermethrin, which will expire on July 1, 1992, and notice of this action appears elsewhere in this issue of the **Federal Register**. To be consistent with these new conditional registrations, the Agency is extending the expiration date for the cypermethrin tolerances to cover residues expected to be present from use during the period of conditional registration.

The data submitted in support of these tolerances and other relevant material have been reviewed. The toxicological data considered in support of these tolerances are discussed in detail in related documents, published in the **Federal Registers** of June 15, 1984 (49 FR 24864), April 30, 1986 (51 FR 16032), and February 24, 1988 (53 FR 5375).

Based on a 1-year dog feeding study with a no-observed-effect level (NOEL)

of 1.0 mg/kg/day [1] and using a safety factor of 100, the acceptable daily intake (ADI) has been calculated to be 0.01 mg/kg/day with a maximum permissible intake (MPI) of 0.6 mg/day for a 60-kg person. (The Agency used the 1-year dog feeding study no-observed-effect level (NOEL) to establish the ADI since the dog was the most sensitive species tested, i.e., gave the lowest NOEL.) The tolerances represent a theoretical maximum residue contribution (TMRC) of 0.002772 mg/day in a 1.5-kg diet and represent 27.7 percent of the ADI.

There are no regulatory actions pending against the registration of cypermethrin. The metabolism of cypermethrin in plants and animals is adequately understood. An analytical method using electron capture gas-liquid chromatography is available for enforcement purposes.

Based on the above information, the Agency has determined that extending the tolerances for residues of the pesticide cypermethrin in or on the subject commodities will protect the public health. Therefore, as set forth below, the tolerances are extended to July 1, 1993, to cover residues existing from the continued conditional registration of cypermethrin. The tolerances could be made permanent if full registration is subsequently granted. Notice of further action on these tolerances will be published for comment in the **Federal Register**.

Pursuant to section 408(d)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(5)) and 40 CFR 180.13, any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. As required by 40 CFR 180.13 (a) and (b), such objections must be accompanied by the requisite filing fee and specify the provisions of the regulations deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances of raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 1, 1989.

Edwin F. Tinsworth,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.418 [Amended]

2. Section 180.418 *Cypermethrin; tolerances for residues* is amended in the introductory text by changing "Tolerances are established until December 31, 1989, * * *" to read, "Tolerances are established until July 1, 1993, * * *."

[FR Doc. 89-23439 Filed 10-6-89; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Temp. Reg. H-27]

Homeless Assistance; Modification of Policies and Procedures

AGENCY: Federal Property Resources Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation temporarily modifies GSA's policies and procedures for making Federal public buildings and other Federal real properties (including fixtures) available for homeless assistance use pursuant to title V of the Stewart B. McKinney Homeless Assistance Act.

DATES: *Effective date:* October 5, 1989. *Expiration date:* October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Marjorie L. Lomax, Director, Policy and Planning Division, Office of Real Estate Policy and Sales, Federal Property Resources Service (202-535-7052).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-47

Government property management, Surplus Government property.

Authority: Section 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

In 41 CFR chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter H to read as follows:

Federal Property Management Regulations Temporary Regulation H-27

September 7, 1989.

To: Heads of Federal Agencies.

Subject: Stewart B. McKinney Homeless Assistance Act.

1. *Purpose.* This regulation provides revised General Services Administration (GSA) policy and procedures for making Federal public buildings and other Federal real properties (including fixtures) available for homeless assistance use pursuant to title V of the Stewart B. McKinney Homeless Assistance Act (McKinney Act), 42 U.S.C. 11411 *et seq.*

2. *Effective date.* This regulation is effective October 5, 1989.

3. *Expiration date.* This regulation expires October 7, 1991.

4. *Applicability.* The provisions of this regulation apply to all Federal agencies that report property excess to GSA under the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 471 *et seq.*, and as implemented by the Federal Property Management Regulations (41 CFR part 101). GSA has prepared this regulation in consultation with the Interagency Council on the Homeless which is currently working to streamline the process of making title V properties available to the homeless. As the process is refined, this regulation will be revised accordingly.

5. *Definitions.* The definitions of terms (excess, surplus, underutilized, unutilized) are found in 41 CFR 101-47.103 and 801.

6. *Background.* Title V of Public Law 100-77 enacted on July 22, 1987, as amended by Public Law 100-628 on November 7, 1988, and Orders issued by the U.S. District Court for the District of Columbia on December 12, 1988, and May 22, 1989, in the case of the *National Coalition for the Homeless, et al.* vs. *Veterans Administration, et al.* provide in part:

a. Federal agencies controlling land (holding agencies) are required to submit to the Department of Housing and Urban Development (HUD), on a quarterly basis, completed suitability checklists on properties identified as unutilized and underutilized as the result of surveys under FPMR subpart 101–47.8, or any other surveys that holding agencies conduct. HUD will determine whether or not the properties are suitable for use as facilities to assist the homeless, and will advise holding agencies of HUD's determinations regarding suitability within 2 months of submission of the checklists. (See **Federal Register** dated June 23, 1989 (54 FR 26421), for specific procedures as to underutilized and unutilized properties as briefly discussed in this section and section 7 of this temporary regulation for excess properties.)

b. HUD is required to publish a list of properties determined suitable in the **Federal Register** on a weekly basis. Within 30 days after receipt of notice of suitability from HUD, holding agencies shall transmit to HUD and GSA a response which shall include the following: a statement of the agency's intention to declare the property excess, a statement of the agency's intention to make the property available to the homeless on an interim basis, or a statement of the reasons why the property cannot be declared excess or made available on an interim basis.

c. Homeless providers interested in the use of listed suitable properties must confirm with the holding agencies that the properties are available and then apply to the Department of Health and Human Services (HHS). HHS will evaluate each application and determine if it is approvable. HHS will refer approved applications to the holding agencies.

d. Holding agencies may make suitable properties available to the homeless by permit or lease or may report the properties to GSA as excess.

7. *Revised Procedures.* The following procedures apply to real property reported excess to GSA.

a. Holding agencies will provide to GSA, as part of the report of excess, a copy of any HUD suitability determination.

b. If the holding agency reports a property to GSA which has not been reviewed by HUD for homeless assistance suitability, GSA will submit a completed suitability checklist to HUD.

c. Within 60 days from GSA's submission, HUD will advise GSA of the suitability determination and HUD will publish a list of suitable properties in the **Federal Register**.

d. Upon publication in the **Federal Register** (for properties not previously determined suitable) or upon receipt of the report of excess (for properties previously determined suitable), in accordance with current procedures, GSA will concurrently notify identified homeless assistance providers; HHS; HUD; State and local governmental units; known expressions of interest; and other organizations, as appropriate, concerning suitable properties.

e. GSA will screen excess properties for Federal use and will screen surplus properties with State and local governmental units and eligible nonprofit institutions in accordance with current regulations. (See 41 CFR 101–47.203–5 and 41 CFR 101–47.204–1 and 303–2.)

f. Prospective applicants must express written interest to HHS during the 30-day period following the date of publication in the **Federal Register** and must submit complete applications to HHS as soon as possible, but in no case later than 90 days from the date of publication. For properties previously determined suitable, prospective applicants must express written interest to HHS during the 30-day period following the date of the GSA screening notice and must submit complete applications to HHS as soon as possible, but in no case later than 90 days from the date of the screening notice. HHS, subject to the approval of GSA, may grant reasonable extensions to applicants. In accordance with the Court's Order of December 12, 1988, if the deadlines noted above have been met, GSA will defer the disposal of the property until HHS has completed action on the homeless assistance application or HHS advises GSA of no expressions of interest or disapproval of the application(s).

g. Within 15 days from receipt of a complete application, HHS will approve or disapprove the application.

h. Where HHS approves the application, HHS will request assignment from GSA for homeless assistance purposes and provide GSA with a copy of the approved application.

i. Prior to assignment to HHS, GSA may consider other Federal uses and other important national needs. In deciding the disposition of real property, GSA will give priority of consideration to homeless assistance use.

j. Suitable property to be assigned to HHS for homeless assistance use will be determined surplus by GSA.

k. Upon assignment of the property to HHS, HHS shall execute a lease for homeless assistance use for at least 1 year and monitor for compliance. Consistent with the provisions of the McKinney Act, the Government retains the fee interest in all properties made available for homeless use. In accordance with 41 CFR 101–47.402, HHS, upon execution of a lease, shall become the holding agency and shall assume custody, accountability, protection, and maintenance of such property pending report of excess as provided in 41 CFR 101–47.308(m).

l. GSA will defer disposing of all properties determined unsuitable for homeless assistance use for 2 weeks from the date of publication by HUD in the **Federal Register**. Thereafter, GSA will proceed with disposal action following procedures set forth in 41 CFR part 101–47.

m. GSA will proceed with normal disposal procedures upon written notice from HHS that no homeless provider expressed written interest in the property during the 30-day homeless screening period or upon advice from HHS that any and all applications have been disapproved.

8. *Categorical exceptions.* The following categories of properties may be treated as categorical exceptions to the McKinney Act and will not undergo suitability review:

a. Machinery and equipment.

b. Restricted disposals.

(1) Government-owned contractor-operated machinery, equipment, land, and other facilities reported excess for sale only to the using contractor and subject to a continuing military production requirement.

(2) Properties subject to special legislation directing a particular action.

c. Transactions performed for executive agencies under the National Economy Act (31 U.S.C. 1535).

d. Property subject to a court order directing a particular action.

e. Mineral rights interests.

9. *Assistance.* Requests for additional information regarding these procedures may be directed to the General Services Administration, Office of Real Estate Policy and Sales (DR), 18th and F Streets, NW., Washington, DC 20405.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–23350 Filed 10–4–89; 8:45 am]

BILLING CODE 6820–96–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88–284; RM–6138, RM–6474, RM–6489]

Radio Broadcasting Services; Angola, Decatur and Lagrange, IN; and Brooklyn and Hudson, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 273A for Channel 249A at Hudson, Michigan, to provide that community with its first local broadcast service, in response to a request filed by Randall Bhirdo (RM–6474). Coordinates used for Channel 273A at Hudson are 41–50–09 and 84–25–39. (See also, **SUPPLEMENTARY INFORMATION,** *infra.*) With this action, the proceeding is terminated with respect to RM–6474 only.

DATES: Effective November 13, 1989; The window period for filing applications on Channel 273A at Hudson, Michigan, will open on November 14, 1989, and close on December 14, 1989.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's First Report and Order, MM Docket No. 88–

284, adopted September 6, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

An additional proposal in this proceeding, filed on behalf of Midwest Communications Company ("MCC"), licensee of Station WQTZ(FM), Channel 224A, Decatur, Indiana, seeking to substitute Channel 286B1 for Channel 224A and modification of its license accordingly (RM-6489), is the subject of a separate *Order*, and therefore, will be resolved separately.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended under the entry for Hudson, Michigan, by removing Channel 249A and adding Channel 273A.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89-23578 Filed 10-4-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 81132-9033]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the total allowable catch (TAC) specified for pollock in the combined Central and Western Regulatory Areas of the Gulf of Alaska will be reached on October 1, 1989. The Secretary of Commerce (Secretary) is prohibiting further retention of pollock in these combined areas from 12:00 noon, Alaska Daylight Time (ADT), on October 1, 1989 through December 31, 1989.

DATES: Effective from 12 noon on October 1, 1989, ADT, until midnight, Alaska Standard Time (AST), December 31, 1989. Public comments are invited through October 16, 1989.

ADDRESS: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett, Resource Management Specialist, (907) 586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR part 672. Section 672.20(a) of the regulations establishes an optimum yield range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. TACs for each target groundfish species and species group are specified annually. For 1989, TACs were established for each of the target groundfish species and species groups and apportioned among the regulatory areas and districts.

An overall TAC for pollock equal to 60,000 mt was specified for the Central and Western Regulatory Areas, combined (54 FR 6524, February 13, 1989), and under authority of § 672.22 was increased by the Secretary to 72,000 mt (54 FR 32819, August 10, 1989) with an original effective date of September 5, 1989 that was subsequently revised to be September 15, 1989 (54 FR 37109, September 7, 1989). The Director, Alaska Region, has determined that 68,845 mt has been landed through September 26, 1989. At the current average rate of 550 mt landed per day, the 72,000 mt TAC will be achieved at 12:00 noon on October 1, 1989.

Therefore, pursuant to section 672.20(c)(2), the Secretary is prohibiting further retention of pollock in the Central and Western Regulatory Areas of the Gulf of Alaska, effective 12:00 noon, ADT, October 1, 1989. Any catches of pollock after that date must be treated as prohibited species and discarded at sea.

Classification

This action is taken under § 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 29, 1989.

Richard H. Schaefer,

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

[FR Doc. 89-23517 Filed 9-29-89; 5:03 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 90407-9170]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director) has determined that the "JVP other fishery" has attained its primary prohibited species catch (PSC) allowance of Pacific halibut in the Bering Sea and Aleutian Islands (BSAI) area. "JVP other fishery" is defined as joint venture processing fishing operations which deliver, on a weekly basis, any combination of groundfish species which does not qualify the fishery as a "flatfish fishery". Therefore, the Secretary of Commerce (Secretary) is prohibiting, for the remainder of the fishing year, the receipt by foreign vessels of groundfish caught from bycatch limitation zones 1 and 2H that is composed of 20 percent or more of pollock and Pacific cod in aggregate. This action is necessary to prevent excessive bycatch of Pacific halibut in the trawl fishery for groundfish in an area of particular importance to the Pacific halibut stock. This action is intended to carry out the objectives of recently implemented measures to control the bycatch of prohibited species in the trawl fishery for groundfish.

DATE: Effective September 29, 1989 through December 31, 1989. Public comments are invited through October 14, 1989.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist), NMFS Alaska Region, P.O. Box 21668, Juneau, Alaska 99802-1668, Telephone 907-586-7229.

SUPPLEMENTARY INFORMATION: The Secretary approved, on July 7, 1989, Amendment 12A to the Fishery Management Plan for the groundfish fishery in the Bering Sea and Aleutian

Islands area (FMP) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 12A was implemented by the Secretary with a final rule (54 FR 32642 August 9, 1989) (as corrected at 54 FR 37469 September 11, 1989) which is effective September 3, 1989, through December 31, 1990.

The purpose of amendment 12A is to limit incidental catches of the prohibited species, Tanner crab, red king crab, and Pacific halibut, by the groundfish fisheries in the BSAI area. Such incidental catches are referred to as bycatches in fisheries targeting other species.

The Amendment establishes five PSC limits, each of which are apportioned among four fisheries: the domestic annual processing (DAP) fisheries for flatfish and other species, and the joint venture processing (JVP) fisheries for flatfish and other species. Each of the 20 PSC allowances prescribed for the 1989 groundfish fisheries were specified in the final rule implementing Amendment 12A (§ 675.21, Table 2, 54 FR 32651, August 9, 1989). Specification of the PSC allowances was based on the anticipated bycatch of prohibited species through the use of a mathematical prediction procedure using statistical information derived from fishery performance in previous years and projected performance for the 1989 fishing year.

In early September, the Regional Director determined that the prediction procedure has led to incorrect specification of the PSC allowances for Pacific halibut and he adjusted PSC allowances based on the best available scientific information concerning the actual groundfish harvest to date and new projections of harvest for the remainder of the fishing year. Pacific halibut PSC amounts were apportioned to the DAP and JVP flatfish fisheries from the DAP and JVP other fisheries, effective September 3, 1989 (54 FR 37113, September 7, 1989). The current primary PSC allowance for Pacific halibut for the "JVP other fishery" is 415 mt.

Closure

The Regional Director has determined that the "JVP other fishery" primary bycatch allowance for Pacific halibut, 415 mt, has been caught by U.S. fishing vessels participating in the "JVP other fishery."

Therefore, the Secretary, by this notice and under authority of § 675.21(c)(4)(iii), prohibits for the remainder of the fishing year the receipt by foreign vessels of groundfish caught from bycatch limitation zones 1 and 2H with bottom trawl gear that is composed of 20 percent or more pollock and Pacific cod in the aggregate.

Classification

These actions are taken under §§ 675.20 and 675.21 and comply with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 29, 1989.

Richard H. Schaefer,

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

[FR Doc. 89-23518 Filed 9-29-89; 5:02 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 192
Thursday, October 5, 1989

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-189-AD]

Airworthiness Directives; Boeing Model 747-200 and 747-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive, applicable to certain Boeing Model 747-200 and 747-300 series airplanes, which currently requires repetitive visual inspections of the center wing fuel tank for leakage into the forward cargo compartment. This action would require replacement and resealing of two drag splice fitting bolts located on the front spar, and a one-time inspection and repair, if necessary, of the center wing fuel tank front spar and upper surface secondary fuel barrier application. This action would also terminate the repetitive inspections of the center fuel tank for fuel leakage into the forward cargo compartment when the proposed modifications and inspections are completed. This condition, if not corrected, could result in fuel or fuel vapors entering the cargo and passenger compartments in the event of a failure of a primary seal or a crack in the center wing box structure.

DATE: Comments must be received no later than November 27, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-189-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Michael E. Dostert, Propulsion Branch, ANM-140S; telephone (206) 431-1974. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-189-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On April 8, 1988, the FAA issued Telegraphic AD T88-08-51, applicable to certain Boeing Model 747-200 series airplanes, which required visual inspections of the wing center section front spar lower chord area for fuel leaking from the center wing fuel tank into the forward cargo compartment, and repair of any leaks that were discovered. That action was prompted by reports of fuel leaks, due to either loose or broken bolts which connect the body station (BS) 1000 bulkhead chord to the wing center section front spar lower chord through an internal drag splice fitting and a bathtub fitting at body stringer S-38 on both sides of the airplane. Fuel leaking into the forward cargo compartment, which is not a flammable fluid leakage zone, creates a potential fire hazard.

Subsequent to the issuance of that Telegraphic AD, which was applicable only to Boeing Model 747-200 series airplanes through line number 592, further investigation revealed that a required secondary fuel barrier (CAT-A-LAC coating), may not have been applied to cover the bolt areas described above on Model 747-200 and 747-300 series airplanes through line number 699. Without this coating, failure of the bolt would allow fuel to leak into the cargo compartment area causing a fire hazard. Therefore, the FAA determined that these additional airplanes must also be inspected for fuel leakage, and issued AD 88-11-11, Amendment 39-5939 (53 FR 18834; May 25, 1988), which superseded T88-08-51 and increased the applicability to include airplanes through line number 699.

Since issuance of those airworthiness directives, the FAA has determined that the secondary fuel barrier on the center wing fuel tank front spar and upper surface may not have been properly applied. In addition, the cause of the loose and broken bolts has been determined to be reduced fatigue life due to inadequate preload of the drag splice fitting bolts during initial installation. Leaks which have been reported were found to be caused by loose bolts which damage sealant due to later?l bolt movement or tearing of the sealant when bolts, which have been weakened due to stress corrosion, fail under load.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-57A2247, Revision 3, dated June 22, 1989, which describes procedures for a one-time inspection of the center wing fuel tank front spar and upper surface secondary fuel barrier application, and modification of the drag splice fitting bolt installation. The service bulletin includes procedures for replacement of

bolts made of H–11 steel with bolts made of Inconel 718, which have improved stress corrosion properties. Use of Inconel 718 bolts, in conjunction with improved torquing procedures, will increase bolt life. For added protection against leakage, a bolt head retention cap is installed to preclude damage to the secondary fuel barrier due to bolt failure. The improved drag splice fitting bolt installation was phased into production and fully implemented on airplanes starting at line number 721.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 88–11–11 with a new AD that would expand the applicability of the existing AD to include airplanes, line numbers 700 through 720. This proposed AD would require repetitive visual inspections for fuel leaks at the center wing fuel tank, and repair if necessary, on airplanes through line number 720; and eventual installation of bolt head retention caps and replacement of the H–11 steel drag splice fitting bolts with Inconel 718 bolts on those airplanes, in accordance with the service bulletin previously described. Accomplishment of the bolt replacement would constitute terminating action for the required visual inspections. In addition, this proposed AD would require inspection of the secondary fuel barrier application on airplanes through line number 699, and repair if necessary, in accordance with the service bulletin previously described.

There are approximately 450 Model 747–200 and 747–300 series airplanes of the affected design in the worldwide fleet. It is estimated that 97 airplanes of U.S. registry would be affected by this AD, that it would take approximately 136 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $527,680.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and have been assigned OMB Control Number 2120–0056.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–5939 (53 FR 18834; May 25, 1988), AD 88–11–11, with the following new airworthiness directive:

Boeing: Applies to Model 747–200 and 747–300 series airplanes, listed in Boeing Service Bulletin 747–57A2247, Revision 3, dated June 22, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent fuel or fuel vapors from entering the forward cargo compartment, accomplish the following:

A. For airplanes line numbers 1 through 720, within the next 50 flight hours after the effective date of this AD, unless previously accomplished within the last 350 flight hours, and thereafter at intervals not to exceed 400 flight hours, conduct a visual inspection for fuel leaks at the forward side of the forward wall of the center wing fuel tank (body station 1000 pressure bulkhead) between fuselage stringers S–37 and S–39, left and right side of the airplane, with specific attention to the bathtub fittings at fuselage stringer S–38 (Body Buttline 78.5, left and right), in accordance with Boeing Alert Service Bulletin 747–57A2247, Revision 3, dated June 22, 1989.

1. If fuel leakage or fuel staining is detected, prior to further flight, accomplish the drag splice fitting modification in accordance with paragraph B., below.

2. If no sign of fuel leakage is found, but the sealant around the nut is cracked or damaged, within the next 400 flight hours, accomplish the drag splice fitting modification in accordance with paragraph B., below.

B. For airplanes line numbers 1 through 720, within the next 36 months after the effective date of this AD, install the bolt head retention caps, replace the H–11 steel drag splice fitting bolts with Inconel 718 bolts, and reseal the drag splice fitting, in accordance with Boeing Alert Service Bulletin 747–57A2247, Revision 3, dated June 22, 1989. Accomplishment of these actions constitutes terminating action for the repetitive inspections required by paragraph A., above.

C. For airplanes line numbers 1 through 699, within the next 36 months after the effective date of this AD, inspect the center wing fuel tank front spar and upper surface secondary fuel barrier for proper application, in accordance with Boeing Alert Service Bulletin 747–57A2247, Revision 3, dated June 22, 1989. If improper fuel barrier application is detected, repair prior to further flight, in accordance with Alert Service Bulletin 747–57A2247, Revision 3, dated June 22, 1989.

D. Within 10 days after accomplishing the inspection required by paragraphs C above, submit a report of the complete description of findings of inspections from which it is determined that the secondary fuel barrier is not properly applied to: Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; rapid fax (206) 431–1913; telex 756366.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 26, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-23542 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-127-AD]

Airworthiness Directives; Canadair, Ltd., Models CL-600-1A11, CL-600-2A12, and CL-600-2B16 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to Canadair Model CL-600-1A11 and CL-600-2A12 series airplanes, which currently requires that aileron and elevator flutter dampers be repetitively inspected for fluid leakage and replaced, if necessary; and that the hydraulic fluid be replenished. This condition, if not corrected, could result in flutter of the affected part and eventual loss thereof. This action would allow an increase in the currently required repetitive inspection interval for dampers with certain part numbers, change the applicability statement to include the Model CL-600-2B16, and clarify the accomplishment procedures of the required inspections.

DATE: Comments must be received no later than November 27, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-127-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Canadair, Ltd., P.O. Box 6087, Station A, Montreal, Quebec, Canada; telephone (514) 744-1511. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, Systems and Equipment Branch, ANE-173, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-127-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On May 6, 1986, the FAA issued AD 86-10-02, Amendment 39-5310 (51 FR 17613; May 14, 1986), to require that aileron and elevator flutter dampers be repetitively inspected and replaced, if necessary, and that the hydraulic fluid be replenished. That action was prompted by reports of these dampers were leaking hydraulic fluid. This condition, if not corrected, could result in flutter of the affected parts and eventual loss thereof.

Since issuance of that AD, Canadair, Ltd. has been examining service data and investigating the causes of leaking dampers. Analysis of the survey data for dampers with part numbers 600-75134-9 and 600-75135-5 indicates that the leakage rate for these part numbers is less than previously determined.

Canadair has issued Alert Wire TA600-000-032/194, Revision 1, dated November 21, 1985, which describes procedures to inspect the hydraulic fluid level of these dampers periodically, replenish the fluid, and replace the damper, if necessary. This Alert Wire increases the originally recommended interval for repetitive inspections from 200 flight hours to 300 flight hours. Transport Canada has issued Canadian Airworthiness Directive CF-86-04RI, dated March 22, 1989, addressing this subject.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would revise AD 86-10-02 to increase the repetitive inspection interval for aileron and elevator flutter dampers with part numbers 600-75134-9 and 600-75135-5, from 200 flight hours to 300 flight hours or 12 months, whichever occurs first, in accordance with the service document previously described. Based on the survey data described above, the FAA has determined that the currently required 200-flight hour interval can be increased to 300 flight hours without adversely affecting safety.

This action would also expand the applicability statement to include Model CL-600-2B16 airplanes, Serial Numbers 5001 through 5033. These airplanes utilize the same affected part number dampers and, therefore, would be subject to the same unsafe condition addressed in the existing AD. (Model CL-600-2B16 series airplanes with Serial Numbers 5034 and higher are equipped with improved dampers, Part Number 600-75142-1, which have been tested to allow inspection intervals of 600 flight hours, in accordance with the inspection procedure defined in the maintenance manual.)

Additional information has been added to paragraph A. of the proposed rule to clarify the procedures utilized in determining actions to be taken following the required inspection. Paragraph A. has been changed to correctly address the elevator "flutter" damper which was previously referred to in the original AD as a "flight" damper.

It is estimated that 32 Model CL-600-2B16 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required inspection, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators due to the increase in airplanes affected is estimated to be $6,400 for the initial inspection cycle.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by amending Amendment 39–5310 (51 FR 17613; May 14, 1986), AD 86–10–02, as follows:

Canadair, Ltd.: Applies to Model CL–600–IA11 series airplanes, all serial numbers, Model CL–600–2A12 series airplanes, all serial numbers, and Model CL–600–2B16 series airplanes, Serial Numbers 5001 through 5033, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure that flutter does not occur in the event of failure of two hydraulic systems, accomplish the following:

A. Within 100 flight hours after June 2, 1986 (the effective date of Amendment 39–5310), inspect the aileron and elevator flutter dampers, replenish the hydraulic fluid, or replace the damper, if necessary, in accordance with Canadair Alert Wire TA600–000–032/194, Revision 1, dated November 21, 1985.

1. Dampers, P/N 600–75135–5 and 600–75134–9, with more than .030 inch of green stripe showing, are serviceable and may remain in service until the next inspection required by this AD.

2. Dampers, P/N 600–75135–3 and 600–75134–7, with more than .040 inch of green stripe showing, are serviceable and may remain in service until the next inspection required by this AD.

3. Dampers having less green stripe showing than specified in paragraphs A.1. and A.2., above, must be replenished prior to further flight, in accordance with paragraph 3.3 of the Canadair Alert Wire.

4. Dampers having the green stripe entirely covered by the red cup must be replenished prior to further flight, in accordance with paragraph 3.4 of the Canadair Alert Wire, provided that no more than one flutter damper in this condition is fitted to the same control surface. If *more* than one flutter damper on any control surface is in this condition, prior to further flight, replace it with either a new flutter damper or one which is serviceable under the conditions specified in paragraph A.1., A.2., or A.3., above.

B. Repeat the procedures required by paragraph A., above, as follows:

1. At intervals not to exceed 200 flight hours or six months, whichever occurs first, for dampers, Part Numbers (P/N) 600–75134–7 and 600–75135–3, that indicated green at the last inspection.

2. At intervals not to exceed 100 flight hours or 3 months, whichever occurs first, for dampers, P/N 600–75134–7 and –9, and P/N 600–75135–3 and –5, that indicated completely red at the last inspection.

3. At intervals not to exceed 300 flight hours or 12 months, whichever occurs first, for dampers, P/N 600–75134–9 and 600–75135–5, that indicated green at the last inspection.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, New York Aircraft Certification Office, FAA, New England Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Canadair, Ltd., P.O. Box 6087, Montreal, H3C 3G9, Quebec, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York.

Issued in Seattle, Washington, on September 26, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–23540 Filed 10–4–89; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–NM–183–AD]

Airworthiness Directives; McDonnell Douglas Model DC–8F–54, –55, DC–8–61F, –62F, –63F, –71F, –72F, and –73F Series Airplanes; Model DC–8–33 Airplanes With STC Number SA3403WE Incorporated; and Model DC–8–43 Airplanes With STC Number SA3749WE Incorporated

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes, which currently requires certain inspections and modifications of the main cargo door assembly to prevent inadvertent opening of the main cargo door in flight. This condition, if not corrected, could result in loss of pressurization and control of the airplane. This action would require installation of a main cargo door hydraulic isolation valve; installation of an additional, and modification of the existing, door-open indicating system; installation of a main cargo door lock pin viewing window; installation of a main cargo door vent system; installation of a vent door-open indicating circuit; installation of a main cargo door hinge pin retainer; and modification to the main cargo door latch operating mechanism. This proposal is prompted by further review of the main cargo door design and operation by the FAA and constitutes terminating action for the existing AD.

DATE: Comments must be received no later than November 27, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–183–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The

applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California, Attention: Director of Publication, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. George Y. Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM-132L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California; telephone (213) 988-5341.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-183-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On July 24, 1989, the FAA issued AD 89-17-01, Amendment 39-6285 (54 FR 31806; August 2, 1989), to require inspection and modification of the main cargo door hydraulic control valve and control panel access door, visual inspection of the main cargo door to ensure the door is locked prior to each takeoff, inspection and modification of the exterior markings on the main cargo door, and functional checks of the door-open indicating system. That action was prompted by a recent accident in which the main cargo door on a Model DC-9 series airplane opened in flight. Similar incidents of the Model DC-8 main cargo door opening in flight have been reported. This condition, if not corrected, could result in loss of pressurization and control of the airplane.

Since issuance of that AD, which was considered an interim action, the FAA further reviewed the Model DC-8 main cargo door, including the main cargo door design, prior incidents of inadvertent opening of the door in flight, maintenance of the door, operational aspects of the door, all available service information, and the need to provide terminating action for the initial and repetitive inspections/checks required by that AD. Based on this review, the FAA has determined that additional mandatory corrective actions are necessary to ensure that the Model DC-8 main cargo door will be properly closed, latched, and locked prior to takeoff and will not inadvertently open in flight.

McDonnell Douglas has developed additional safety features to prevent the door from opening in flight. The FAA has reviewed and approved the following related McDonnell Douglas service bulletins:

a. Service Bulletin 52-74, Revision 2, dated November 19, 1975, which describes installation of a main cargo door hydraulic isolation valve to shut off the hydraulic pressure to the control valve when the system is not in use;

b. Service Bulletin 52-76, Revision 3, dated January 29, 1986, which describes procedures for installation of a redundant (dual) door-open indicating system by installing a new door-open indicating circuit, modifying the existing door-open indicating system, and installing a main cargo door indicating system test circuit;

c. Service Bulletin 52-75, Revision 1 dated August 9, 1974, which describes installation of a viewing window in the exterior skin of the door for visual inspection of the lock pin position;

d. Service Bulletin 52-71, dated September 12, 1969, which describes a modification of the main cargo door latch operating mechanism to prevent the latches from closing prematurely during the door closing cycle; and

e. Service Bulletin 52-80, dated March 23, 1977, which describes installation of a vent door system to improve the positive lock feature of the cargo door latching and locking system and limit pressurization of the airplane.

In addition, McDonnell Douglas is currently developing a vent door-open indicating circuit which will alert the flight crew when the vent door is not properly closed and latched. The circuit will be part of the main cargo door-open indicating system. McDonnell Douglas plans to have this vent door-open indicating circuit available for installation on in-service Model DC-8 airplanes by December 1989.

McDonnell Douglas is also developing a cargo door hinge pin retainer to ensure that the hinge pin will be retained in the event of a failure of the hinge pin. McDonnell Douglas plans to have hinge pin retainers available for installation on in-service Model DC-8 airplanes by December 1989.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would revise AD 89-17-01 to require installation of a main cargo door hydraulic isolation valve, modification to the existing door-open indicating system, installation of an additional door-open indicating circuit, installation of a main cargo door indicating system test circuit, installation of a main cargo door lock pin viewing window, modification of the main cargo door latch operating mechanism and installation of a main cargo door vent system, in accordance with the service bulletins previously described. In addition, this AD would require the installation of the aforementioned vent door-open indicating circuit which will signal the appropriate flight crew member when the vent door is not fully closed and latched; and would require the installation of a main cargo door hinge pin retainer to ensure retention of the hinge pin in the event of its failure. Installation of all the above described modifications would constitute terminating action for the repetitive inspections and checks required by the existing AD.

Additionally, the degree of assurance necessary as to the adequacy of inspections needed to maintain the safety of the transport airplane fleet, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on design improvements and material replacement. Thus, in lieu of its previous position on continual inspection, the FAA has decided to require, whenever practicable, airplane modifications necessary to remove the source of the problem addressed. The proposed modification requirements of

this action are in consonance with that policy decision.

There are approximately 137 McDonnell Douglas Model DC-8 series airplanes of the affected design in the worldwide fleet. It is estimated that 71 airplanes of U.S. registry would be affected by this AD, that it would take approximately 180 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required material cost is estimated to be $80,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6,191,200.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

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

2. Section 39.13 is amended by revising AD 89-17-01, Amendment 39-6285 (54 FR 31806; August 2, 1989), as follows:

McDonnell Douglas: Applies to Model DC-8F-54, -55, DC-8-61F, -62F, -63F, -71F, -72F, and -73F series airplanes, as listed in McDonnell Douglas DC-8 Service Bulletin 52-71, dated September 12, 1969; Service Bulletin 52-74, Revision 2, dated November 19, 1975; Service Bulletin 52-75, dated August 9, 1974; Service Bulletin 52-76, Revision 3, dated January 29, 1986; and Service Bulletin 52-80, dated March 23, 1977; certificated in any category. Also applies to Model DC-8-33 airplanes with STC Number SA3403WE incorporated, and Model DC-8-43 airplanes with STC Number SA3749WE incorporated, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent inadvertent opening of the main cargo door in flight, a condition which could result in loss of pressurization and control of the aircraft, accomplish the following:

A. Within 14 days after August 18, 1989 (the effective date of Amendment 39-6285), ensure that the main cargo door is closed, latched, and locked prior to takeoff following each operation of the door, in accordance with the procedures specified below. The procedures required by this paragraph must be accomplished by qualified and trained personnel, and the training program must be approved by the FAA Principal Maintenance Inspector (PMI). The method for documentation of compliance must also be approved by the FAA PMI.

1. From the outside of the airplane perform a visual check of the exterior manual latch controls, to ensure that the latch actuating shaft and the lock pin handle are in the LOCK position; or

2. Perform a visual check of the latches and lock pins, located on the inside of the main cargo door, to ensure that the latches are in the closed position and the lock pins are in the locked position.

3. Prior to taxi, communicate to the flight crew that the main cargo door has been closed, latched, locked, and checked.

B. Unless the modifications described in paragraph E.2. of this AD have previously been accomplished, within the next 30 days after August 18, 1989 (the effective date of Amendment 39-6285), and thereafter at intervals not to exceed 45 days, conduct a main cargo door-open indicating system functional check in accordance with McDonnell Douglas All Operator's Letter (AOL) 8-669, dated April 19, 1974, paragraph 1. If the main cargo door-open indicating system functional check is not successfully accomplished, repair the main cargo door-open indicating system prior to further flight, in accordance with AOL 8-669.

C. For airplanes with hydraulic cargo door latch systems, accomplish the following:

1. Within 30 days after August 18, 1989 (the effective date of Amendment 39-6285), and thereafter at intervals not to exceed 45 days, inspect and modify the main cargo door control panel access door plate and "T" handle stowage clip in accordance with McDonnell Douglas AOL 8-669, dated April 19, 1974, paragraph 2. In addition, inspect the control panel access door to ensure the door can be secured in the down and locked position. If the control panel access door can not be secured in the down and locked position, repair prior to further flight.

2. Unless previously accomplished in accordance with paragraph (2) of AD 75-03-02, Amendment 39-2075, within 30 days after August 18, 1989 (the effective date of Amendment 39-6285), verify that the main cargo door hydraulic control valve shaft operates freely, without binding, between the operate neutral and neutral lock positions. This shall be accomplished by opening the main cargo door hydraulic control valve control panel access door; raising the "T" handle Douglas P/N 4777888-1, and pulling the "T" handle vertically upward to its maximum travel (operate neutral position). When the vertical force on the "T" handle is relieved, the main cargo door hydraulic control valve shaft should return to the neutral lock (down) position without binding. Replace the main cargo door hydraulic control valve, Douglas P/N 5777869-5001 or 5919985-5001, prior to further flight, if the valve shaft does not return freely to the neutral lock position.

D. Within 30 days after August 18, 1989 (the effective date of Amendment 39-6285), inspect the main cargo door exterior lock pin handle and latch actuating shaft markings in accordance with McDonnell Douglas AOL 8-669, dated April 19, 1974, paragraph 7, and with one of the following McDonnell Douglas Drawings: 7718621-59 and -61, Revision "AV"; or 5633828, Revision "E"; or 5633939, Revision "C"; or 5804421, Revision "A/H". If the exterior markings are not correct, mark in accordance with the appropriate McDonnell Douglas drawings, above, prior to further flight.

E. Within the next six months after the effective date of this amendment, accomplish the following:

1. Install a main cargo door hydraulic isolation valve in accordance with McDonnell Douglas Service Bulletin 52-74, Revision 2, dated November 19, 1975; and

2. Install a new main cargo door-open indicating circuit, revise the existing main cargo door-open indicating circuit, and install a main cargo door-open indicating system test circuit in accordance with McDonnell Douglas Service Bulletin 52-76, Revision 3, dated January 29, 1986. Compliance with the requirements of paragraph B., above may be terminated upon the accomplishment of the requirements of this paragraph.

F. Within one year after the effective date of this amendment, accomplish the following:

1. Install a main cargo door lock mechanism view window in accordance with McDonnell Douglas Service Bulletin 52-75, dated August 9, 1974; and

2. Install a main cargo door vent system in accordance with McDonnell Douglas Service Bulletin 52-80, dated March 23, 1977; and

3. Modify the main cargo door latch operating mechanism in accordance with McDonnell Douglas Service Bulletins 52-71 dated September 12, 1969; and

4. Install a main cargo door hinge pin retainer on each end of the hinge, in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, that will retain the hinge pin in the event of a structural failure of the pin; and

5. Install a vent door-open indicating system, in a manner approved by the Manager, Los Angeles Aircraft Certification

Office, FAA, Northwest Mountain Region, that will signal the appropriate flight crew member when the main cargo door vent door is not fully closed and latched.

G. Compliance with the requirements of paragraphs E., F.1., F.2., F.3., and F.5., constitute terminating action for the initial and repetitive inspections required by paragraphs A., B., and C.1. of this AD.

H. The checks and modifications specified in paragraphs A. through F. of this AD are not required on airplanes which have the main cargo door deactivated and secured in the closed and locked position, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, until that door is reactivated.

I. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California, Attention: Director of Publications, C1-L00 (54-60). These documents may be examined at FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on September 26, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-23541 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-AGL-14]

Proposed Transition Area Establishment; Clare, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish the Clare, MI, transition area to accommodate a new VOR/DME-A Standard Instrument Approach Procedure (SIAP) to Clare Municipal Airport, Clare, MI. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before November 17, 1989.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Asst. Chief Counsel, AGL-7, Attn: Rules Docket No. 89-AGL-14, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket nay also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-AGL-14". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area in the vicinity of Clare, MI. This transition area is being established to accommodate a new VOR/DME-A SIAP to Clare Municipal Airport.

The development of this procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Clare, MI [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clare Municipal Airport (lat. 43°49'55" N., long. 84°44'30" W.); within 2 miles each side of the 181° bearing from Clare Municipal Airport, extending from the 5-mile radius to 6.5 miles south of the airport.

Issued in Des Plaines, Illinois, on September 22, 1989.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 89–23544 Filed 10–4–89; 8:45am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-AEA-15]

Proposed Alteration of Transition Area; Great Bend, NY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; correction.

SUMMARY: An error was discovered in the notice of proposed rulemaking that was published in the Federal Register on Tuesday, August 1, 1989, Airspace Docket No. 88–AEA–15. This action corrects that error.

EFFECTIVE DATE: Effective October 5, 1989.

ADDRESSES: Send comments on the rule in triplicate to: Edward R. Trudeau, Manager, Systems Management Branch, AEA–530, Docket No. 88–AEA–15, Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

SUPPLEMENTARY INFORMATION:

Background

Airspace Docket No. 88–AEA–15, published on Tuesday, August 1, 1989 (54 FR 31697), proposed to alter the description of the Great Bend, New York transition area. An error was discovered in the magnetic and true bearings from the Wheeler Sack Army Air Field upon which the bearings were based. This action corrects that error.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 88–AEA–15, as published in the **Federal Register** on Tuesday, August 1, 1989, is corrected to read as follows:

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

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

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

§ 71.181 [Corrected]

2. Great Bend, NY [Corrected]

By removing the description of the Great Bend transition area in its entirety and substituting the following:

"That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, lat. 44°03'00"N., long. 75°44'00"W., of Wheeler Sack A.A.F., NY; within an 8-mile radius of the center of the airport, extending clockwise from a 065°(T) 078°(M) bearing to a 135°(T) 148°(M) bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 135°(T) 148°(M) bearing to a 165°(T) 178°(M) bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 165°(T) 178°(M) bearing to a 195°(T) 208°(M) bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 195°(T) 208°(M) bearing to a 242°(T) 255°(M) bearing from the airport; within 4.5 miles each side of the Watertown, NY VORTAC (lat. 43°57'07"N., long. 76°03'54"W.) 066°(T) 078°(M) radial, extending from the 7-mile radius area and the 10.5 mile radius area to the VORTAC, and within 5 miles each side of the Watertown, NY, VORTAC 069°(T) 081°(M) radial, extending from the 7-mile radius area and the 10.5-mile radius area to the VORTAC."

Issued in Jamaica, New York, on September 11, 1989.

John D. Canoles,

Manager, Air Traffic Division.

[FR Doc. 89–23545 Filed 10–5–89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AD76

Extension of Vocational Programs for Seriously Disabled Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulatory amendments.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations governing two programs which provide vocational services to seriously disabled veterans receiving pension or individual unemployability benefits from VA. These changes are required because recent legislation extended both programs through January 31, 1992, and revised eligibility criteria for participation. The intended effect of these amendments is to make these programs available to an expanded group of veterans in receipt of pension from VA and eliminate the mandatory participation requirement for veterans awarded individual unemployability benefits on or after February 11, 1985.

DATES: Comments must be received on or before November 6, 1989. Comments will be available for public inspection until November 14, 1989. It is proposed to make these amendments effective the same dates the statutory provisions which they implement were enacted. The amendments are effective November 18, 1988, except for § 21.6059(b) which is effective December 31, 1987.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until November 14, 1989.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Policy and Program

Development, Vocational Rehabilitation and Education Service for rules included in § 21.6000 through 21.6525, (202) 233-6496; and Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, in regard to §§ 3.341 through 3.343, (202) 233-3005.

SUPPLEMENTARY INFORMATION: The Veterans' Benefits Improvement Act of 1984 (Pub. L. 98-543) established a temporary 4-year program of vocational training for certain veterans awarded VA pension and a temporary 4 year program of trial work periods and vocational rehabilitation for service-disabled veterans awarded individual unemployability (IU). These programs removed certain disincentives in order to help eligible disabled veterans secure suitable employment. The statutory provisions governing both programs have been amended by the Veterans Benefits Improvement Act of 1988, Pub. L. 100-687. The Act:

(1) Extends the vocational training program through January 31, 1992;

(2) Extends eligibility for program participation to certain veterans awarded pension before the beginning of the program period on February 1, 1985; and

(3) Continues provisions which protect the veteran's eligibility for VA health care if pension is terminated because of income from work or training through January 31, 1992.

In addition to statutory changes made by the Veterans' Benefits Improvement Act of 1988, a related change contained in the Veterans' Benefits and Cost of Living Adjustment Act of 1987 is also implemented. This change increased the number of evaluations which could be provided under the vocational training program for VA pensioners during each 12 month period from 2,500 to 3,500.

Under the temporary program for veterans receiving compensation, those who were newly rated as totally disabled based on individual unemployability between February 1, 1985, and January 31, 1989, were required to undergo an evaluation to determine whether achievement of a vocational goal was reasonably feasible. Failure to do so was a cause for a reduction of the IU rating to the schedular evaluation of their disabilities. Pub. L. 100-687 extended the program period for these veterans until January 31, 1992, and eliminated the requirement for mandatory participation.

It is proposed that these regulatory amendments be retroactively effective. These are interpretive rules which implement statutory provisions. Moreover, VA finds that good cause exists for making these rules, like the sections of the law which they implement, retroactively effective to the date of enactment. A delayed effective date would be contrary to statutory design; would complicate implementation of these provisons of law; and might result in denial of a benefit to a veteran who is entitled by law to that benefit.

These proposed amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the proposed rules only affect the rights of individual VA beneficiaries. No new regulatory burdens are imposed on small entities by these rules.

The Catalog of Federal Domestic Assistance numbers are 64.109 and 64.116.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health Care, Pension, Veterans.

38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 18, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 3, Adjudication, and part 21, Vocational Rehabilitation are proposed to be amended as follows:

PART 3—[AMENDED]

1. In § 3.341 paragraph (c) is revised to read as follows:

1. § 3.341 Total disability ratings for compensation purposes.

* * * * *

(c) *Temporary program for vocational rehabilitation.* Each time a veteran is rated totally disabled on the basis of individual unemployability during the period beginning on February 1, 1985, and ending on January 31, 1992, the Vocational Rehabilitation and Counseling Division will be notified so that an evaluation may be offered to determine whether the achievement of a vocational goal by the veteran is reasonably feasible.

(Authority: 38 U.S.C. 363)

§§ 3.342 and 3.343—[Amended]

2. In § 3.342(c)(1) and § 3.343(c)(2) remove the words "January 31, 1989" where they appear and add, in their place, the words "January 31, 1992".

3. In § 3.342, paragraph (c)(2) is revised to read as follows:

§ 3.342 Permanent and total disability ratings for pension purposes.

* * * * *

(c) *Temporary program of vocational rehabilitation* * * *

(2) Veterans awarded disability pension prior to February 1, 1985, and veterans age 50 or older who are awarded disability pension during the period beginning on February 1, 1985, and ending on January 31, 1992, are also eligible to apply for participation in vocational rehabilitation training; however, such participation is strictly voluntary, and the provisions of paragraph (c)(1) of this section do not apply to such veterans.

(Authority: 38 U.S.C. 524)

PART 21—[AMENDED]

4. Section 21.6001 is revised to read as follows:

§ 21.6001 Temporary vocational training program for certain pension recipients.

This program provides certain veterans awarded pension with an evaluation and, if feasible, with vocational training, employment assistance and other services to enable them to achieve a vocational goal.

(Authority: 38 U.S.C. 524, Pub. L. 100-687)

5. In § 21.6005(f), remove the words "paragraph (e)" where they appear and add, in their place, the words "paragraph (f)".

6. In § 21.6005, paragraphs (d), (e), (f), (g), and (h) are redesignated as paragraphs (e), (f), (g), (h), and (i) respectively; paragraphs (a), (b) and (c) are revised, new paragraph (d) is added, and newly redesignated paragraph (h) is revised to read as follows:

§ 21.6005 Definitions.

(a) *Temporary program.* The term "temporary program" means the program of vocational training for certain pension recipients authorized by section 524, Chapter 15, Title 38 United States Code.

(Authority: 38 U.S.C. 524, Pub. L. 100–687)

(b) *Program period.* The term "program period" means the period beginning on February 1, 1985, and ending on January 31, 1992.

(Authority: 38 U.S.C. 524(a)(4), Pub. L. 100–687)

(c) *Qualified veteran.* The term "qualified veteran" means:

(1) A veteran awarded disability pension during the program period; or

(2) A veteran who was awarded disability pension prior to the beginning of the program period on February 1, 1985, has been continuously in receipt of pension since that time, and is in receipt of pension on the date his or her claim for assistance under the vocational training program is received by VA.

(Authority: 38 U.S.C. 524(a), Pub. L. 100–687)

(d) *Program participant.* The term "program participant" means a qualified veteran as defined in paragraph (c) of this section who, following an evaluation in which VA finds achievement of a vocational goal is reasonably feasible for the veteran, elects to participate in a vocational training program.

(Authority: 38 U.S.C. 524(a), Pub. L. 100–687)

* * * * *

(h) *Job development.* The term "job development" means comprehensive professional services to assist the individual veteran to actually obtain a suitable job, and not simply the solicitation of jobs on behalf of the veteran.

(Authority: 38 U.S.C. 524(b)(3))

* * * * *

7. In § 21.6015 paragraphs (c), (d), and (e) are redesignated as new paragraphs (d), (e), and (f) respectively; the heading and the authority citation for paragraph (a) are revised, paragraphs (b) is revised and new paragraph (c) is added to read as follows:

§ 21.6015 Claims and elections.

(a) *Claims by veterans under age 50 for whom participation in an evaluation is required.*

* * * * *

(Authority: 38 U.S.C. 524(b); Pub. L. 100–687)

(b) *Claims by qualified veterans for whom participation in an evaluation is not required.* Qualified veterans in the following categories will be provided an evaluation if they request assistance under the temporary program, and are found to have good employment potential. These veterans include:

(1) Veterans age 50 and more who are awarded pension during the program period;

(2) Veterans awarded pension prior to the beginning of the program period on February 1, 1985 who meet the conditions contained in § 21.6005(c) of this part.

(Authority: 38 U.S.C. 524(b), Pub. L. 100–687)

(c) *Filing a claim.* A veteran is one of the categories identified in paragraph (b) of this section must file a claim in the form prescribed by VA in order to be considered for an evaluation of his or her abilty to achieve a vocational goal through participation in this temporary program. The veteran's claim is considered a request for both the evaluation, and if achievement of a vocational goal is found reasonably feasible, for participation in the vocational training program.

(Authority: 38 U.S.C. 524, Pub. L. 100–687)

8. In § 21.6021 paragraph (a) and its authority citation is revised to read as follows:

§ 21.6021 Nonduplication—38 U.S.C. Chapters 30, 31, 32, 34 and 35.

(a) *Election between this temporary program and Chapter 31 required.* A service-disabled veteran awarded VA pension who is offered a vocational training program under 38 U.S.C. Chapter 15 and is also eligible for such assistance under Chapter 31, must elect which benefit he or she will receive. The veteran may reelect at any time if he or she is still eligible for the benefit desired.

(Authority: 38 U.S.C. 524(b)(2); Pub. L. 100–687)

* * * * *

9. In § 21.6040, paragraph (a) (1) and (c) and the authority citations for paragraphs (b) and (c) are revised to read as follows:

§ 21.6040 Eligibility for vocational training and employment assistance.

(a) *Basic eligibility requirements.*

* * *

(1) The veteran is a qualified veteran as described in § 21.6005(c) of this part.

* * * * *

(Authority: 38 U.S.C. 524(b); Pub. L. 100–687)

(c) *Eligibility if pension is terminated.* A qualified veteran for whom a program of vocational training has been found reasonably feasible shall remain eligible for the temporary program, subject to the rules of this subpart and section 524 of 38 U.S.C. ch. 15, even if his or her pension award is subsequently terminated, except when the veteran's award of VA pension was the result of fraud or administrative error.

(Authority: 38 U.S.C. 524(a); Pub. L. 100–687)

§ 21.6042 [Amended]

10. a. In § 21.6042 (b) and (d) add the following to the authority citation, "; Pub. L. 100–687".

b. In § 21.6042 in the introductory text of paragraph (a), paragraph (a)(1) and paragraph (b), remove "1989" and add, in their place, "1992".

c. In § 21.6042(d) remove the words "January 31, 1994" and add, in their place, the words "January 31, 1997".

11. In § 21.6050 (b), (c), (d), and (e) add the following to the authority citation, "; Pub. L. 100–687".

12. In § 21.6050, paragraph (d)(1)(ii) is removed; the heading for paragraph (b) and the first sentence of paragraph (b), the first sentence of paragraph (c)(1), paragraph (c)(2), and paragraph (e) are revised to read as follows:

§ 21.6050 Participation of eligible veterans in an evaluation.

* * * * *

(b) *Evaluating other qualified veterans.* An evaluation shall be accorded each qualified veteran as described in § 21.6005(c) of this part who seeks to become a program participant provided VA first determines the veteran has good potential for achieving employment. * * *

(c) *Notice to eligible veteran.* (1) A qualified veteran under age 50 awarded pension during the progrm period for whom participation in an evaluation is not clearly precluded by reasons beyond the veteran's control shall be sent a notice at the time he or she is awarded a pension. * * *

(2) A qualified veteran age 50 or older awarded pension during the program period will be informed of the provisions of this temporary program and the procedure for requesting an evaluation.

* * * * *

(d) *Scheduling the evaluation.* * * *

(2) Other qualified veterans identified in § 21.6054 of this part who are found to have good employment potential under § 21.6054 of this part.

* * * * *

(e) *Followup of qualified veterans who do not complete an evaluation.* The case of each qualified veteran under age 50 awarded pension during the program period for whom an evaluation was not scheduled or who does not complete an evaluation shall be reviewed for followup action by Vocational

Rehabilitation and Counseling (VR&C) staff as provided in §§ 21.197(c)(4) and 21.198(d) of this part.

* * * * *

13. In § 21.6054, the section heading, the firt sentence of paragraph (a), and the authority citation for paragraph (a) are revised to read as follows:

§ 21.6054 Criteria for determining good employment potential.

(a) *Determining good employment potential.* Before scheduling an evaluation of feasibility to pursue a vocational goal for a qualified veteran under § 21.6005(c)(2) of this part, VA will first determine whether the veteran has good potential for achieving employment if provided a vocational training or employment program. * * *

(Authority: 38 U.S.C. 524(a)(2); Pub. L. 100-687)

* * * * *

§ 21.6059 [Amended]

14. a. In § 21.6059 (a) and (b) remove the numbers "2,500" and add, in their place, the numbers "3,500".

b. In § 21.6059 (a), (b) and (c) add the following to the authority citation, "; Pub. L. 100-227".

15. In § 21.6059 paragraph (b)(1) is removed, and paragraphs (b)(2) and (b)(3) are redesignated as paragraphs (b)(1) and (b)(2) respectively; paragraphs (c)(1) and (c)(2) are revised to read as follows:

§ 21.6059 Limitations on the number of evaluations.

* * * * *

c. *Cases not counted as evaluations.* * * *

(1) The veteran under age 50 awarded pension during the program period is unable to participate for reasons beyond his or her control;

(2) Review of available informaiton does not indicate a good potential for employment of other qualified veterans.

* * * * *

16. a. In part 21, subpart J, §§ 21.6511, 21.6513, 21.6517, and 21.6525 are removed and reserved.

b. In part 21, subpart J, the authority citation is revised to read as follows:

Authority: Pub. L. 98-543, sec. 111; 38 U.S.C. 363; Pub. L. 100-687. sec. 1301.

17. In § 21.6501, the heading and authority citation for paragraph (b) are revised to read as follows:

§ 21.6501 Overview.

* * * * *

(b) *Chapter 31 evaluations.* * * *

(Authority: 38 U.S.C. 363; Pub. L. 100-687)

* * * * *

§ 21.6503 [AMENDED]

18. In § 21.6503(a) remove the words "January 31, 1989" and add, in their place, the words "January 31, 1992".

19. Section 21.6505 is revised to read as follows:

§ 21.6505 Participation in the temporary program.

Participation in this temporary program of trial work periods and vocational rehabilitation is limited to qualified veterans.

(Authority: 38 U.S.C. 363(a)(2)(A))

20. Section 21.6509 is revised to read as follows:

§ 21.6509 Notice to qualified veterans.

(a) At the time notice is provided to a qualified veteran of an award of an IU rating, VA shall provide the veteran with an additional statement. These statements shall contain the following information:

(1) Notice of the provisions of 38 U.S.C. 363;

(2) Information explaining the purposes and availability of, as well as eligibility requirements and procedures for pursuing, a vocational rehabilitation program under Chapter 31; and

(3) A summary description of the scope of services and assistance available under that chapter.

(Authority: 38 U.S.C. 363(c)(1))

(b) *Opportunity for evaluation.* After providing the notice required under paragraph (a) of this section, VA shall offer the veteran the opportunity for an evaluation under § 21.50 of this part.

(Authority: 38 U.S.C. 363(c); Pub. L. 100-687)

(c) *Evaluation.* The term "evaluation" hereinafter shall be understood to mean the same evaluation accorded in an "initial evaluation" and an "extended evaluation" a those terms are described in §§ 21.50 and 21.57 of this part.

(d) *Responsible staff member.* The evaluation or reevaluation will be provided by a counseling psychologist in the Vocational Rehabilitation and Counseling (VR&C) Division.

(Authority: 38 U.S.C. 363(c))

21. In § 21.6515 paragraph (b) and its authority citation are revised to read as follows:

§ 21.6515 Formulation of rehabilitation plan.

* * * * *

(b) *Existing plan.* If the veteran already has undetaken a rehabilitation program under Chapter 31, a new plan shall not be developed unless circumstances indicate that the existing plan should be modified or replaced.

(Authority: 38 U.S.C. 363(c); Pub. L. 100-687)

22. In § 21.6519 paragraph (c) is revised to read as follows:

§ 21.6519 Eligibility of qualified veterans for employment and counseling services.

* * * * *

(c) *Veteran elects counseling, placement and postplacement services.* If a qualified veteran elects not to undertake the IWRP and is otherwise eligible for counseling, placement and postplacement services under 38 U.S.C. 1504(a) (2) and (5), he or she may be provided those services.

(Authority: 38 U.S.C. 363(b))

§ 21.6523 [Amended]

23. a. In § 21.6523(a) remove the words "January 31, 1989" and add, in their place, the words "January 31, 1992".

B. In § 21.6523 add the following to the authority citation, "; Pub. L. 100-687".

[FR Doc. 89-23547 Filed 10-4-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL 3657-6]

National Emission Standards for Hazardous Air Pollutants; Benzene Emissions From Chemical Manufacturing Process Vents, Industrial Solvent Use, Benzene Waste Operations, Benzene Transfer Operations, and Gasoline Marketing System; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Correction.

SUMMARY: The EPA is correcting an error in the applicability section of the proposed National Emission Standard for Benzene Emissions from Benzene Transfer Operations source category which appeared in the **Federal Register** on September 14, 1989 (54 FR 38083).

FOR FURTHER INFORMATION: Ms. Shirley Tabler at (919) 541-5256, Standards Development Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: On September 14, 1989 (54 FR 38083), EPA proposed regulations limiting benzene emissions from several source categories. The proposed National Emission Standard for Benzene Emissions from Benzene Transfer

Operations contained an omission in the applicability section of regulation. The omission is being corrected by this notice.

Dated: September 29, 1989.

Richard D. Wilson,

Acting Assistant Administrator.

The following correction is being made in FRL 3620-5; National Emission Standards for Hazardous Air Pollutants; Benzene Emissions from Chemical Manufacturing Process Vents, Industrial Solvent Use, Benzene Waste Operations, Benzene Transfer Operations, and Gasoline Marketing System published in the **Federal Register** on September 14, 1989 (54 FR 38083).

1. Paragraph (d) of § 61.300 on page 38118, column 2, is correctly revised to read as follows:

§ 61.300 Applicability.

* * * * *

(d) The owner or operator of an affected facility, as defined in § 61.300(a), that loads a marine vessel shall be in compliance with the provisions of this subpart on and after February 1, 1991. If an affected facility that loads a marine vessel also loads a tank truck or railcar, the marine vessel loading racks shall be in compliance with the provisions of this subpart on and after February 1, 1991, while the tank truck loading racks and the railcar loading racks shall be in compliance as required by § 61.12.

[FR Doc. 89-23583 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SW-FRL-3657-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by Occidental Chemical Corporation, Delaware City, Delaware, to exclude certain solid wastes to be generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270 and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The agency is also proposing the use of a fate and transport model and its application in evaluating the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned wastes once they are disposed.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until November 20, 1989. Comments postmarked after the close of the comment period will be stamped "late."

Any person may request a hearing on this proposed decision and/or the model used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by October 20, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305) U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-89-OTEP-FFFFF."

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at U.S. Environmental Protection Agency, 401 M Street SW., Room M2427, Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460 (202) 475-9928.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (*i.e.* ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of

hazardous waste, generators remain obligated to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will propose to deny the petition. If, however, the Agency agrees with the Petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use a fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Occidental's petitioned wastes on human health and the environment. Specifically, the model will be used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constituents.

EPA believes that this fate and transport model represents a reasonable worst-case waste disposal scenario for the petitioned wastes, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted wastes off site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data to its evaluation of delisting petitions. In this case, the Agency determined that, because Occidental is seeking an upfront delisting (*i.e.*, an exclusion for waste generated from a laboratory-scale treatment process), ground-water monitoring data collected from the area where the petitioner plans to dispose of the wastes are not necessary. Because the petitioned wastes are not currently generated or disposed, ground-water data would not characterize the effects of the petitioned wastes on the underlying aquifer at the disposal site, and thus, would serve no purpose.

Occidental petitioned the Agency for an upfront exclusion (for wastes that have not yet been generated) based on a laboratory-scale waste treatment process (*i.e.*, a scaled down version of a proposed treatment system), untreated waste characteristics, and process descriptions. The Agency is proposing that verification testing requirements (*i.e.*, required analytical testing of representative samples obtained from the full-scale treatment system, verifying that the treatment system is on-line and operating as described in the petition) be made conditions of the exclusion. These conditions, if the exclusion is granted, will be implemented in order to show that, once on-line, the treatment system can render the waste non-hazardous by meeting the Agency's verification testing limitations (*i.e.*, the maximum allowable level of the hazardous constituents of concern present in the waste, below which, the waste would not be considered hazardous).

From the evaluation of Occidental's upfront delisting petition, a list of constituents was developed for the verification testing and proposed maximum allowable treated waste concentrations for these constituents were derived by back calculating from the health-based levels used for delisting decision-making through the use of the proposed fate and transport model for a landfill management scenario. These maximum allowable concentrations (*i.e.*, "delisting levels") are proposed conditions of the delisting.

The Agency encourages the use of upfront delisting petitions because they have the advantage of allowing the applicant to know what treatment levels for constituents should be sufficient to render specific wastes non-hazardous, before investing in new or modified waste treatment systems. Therefore, upfront delisting will allow new facilities to receive exclusions prior to generating wastes, which without upfront exclusions, would unnecessarily have been considered hazardous. Upfront delistings for existing facilities can be processed concurrently during construction or permitting activities; therefore, new or modified treatment systems should be capable of producing wastes that are considered non-hazardous sooner than otherwise would be possible. At the same time, conditional batch testing requirements to generate data verifying that the delisting levels are achieved by the fully operational manufacturing/treatment systems will maintain the integrity of the delisting program and will ensure that only non-hazardous wastes are removed from subtitle C control.

Finally, the Hazardous and Solid Waste Amendents of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Petition

Occidental Chemical Corporation Delaware City, Delaware.

1. Petition for Exclusion

Occidental Chemical Corporation (Occidental), located in Delaware City, Delaware, produces chlorine, sodium hydroxide, potassium hydroxide, and hydrogen. Occidental petitioned the Agency to exclude its treated sodium chloride brine sludge, sodium chloride saturator cleanings, and potassium chloride brine sludge, all presently as EPA Hazardous Waste No. K071—"Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used." The listed constituent of concern for EPA Hazardous Waste No. K071 is mercury. Occidental petitioned to exclude its wastes because it does not believe that the treatment residues meet the criteria of the listing. Occidental also does not believe that the treated wastes are hazardous for any other reason (*i.e.*, there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)-(4). Today's proposal to grant this petition for delisting is the result of the Agency's review of Occidental's petition.

2. Background

Occidental petitioned the Agency to exclude its treated mercury brine mud wastes on September 2, 1987 and subsequently provided additional information to complete its application. In support of its petition, Occidental submitted (1) detailed descriptions of its manufacturing and proposed waste treatment processes; (2) a list of all the raw materials used in both the manufacturing and treatment processes; (3) results from total constituent and EP toxicity analyses for all the EP toxic metals and nickel from representative samples of the brine wastes treated in the laboratory-scale treatment process; (4) results from total constituent analyses for total cyanide, and total oil and grease; and (5) results from analysis for the hazardous waste characteristics (ignitability, corrosivity and reactivity) on representative samples of the treated waste streams from the laboratory-scale process. Once Occidental's full-scale treatement system is on-line, EPA proposes that Occidental be required to perform analyses for EP leachate concentrations of all the EP toxic metals, nickel and cyanide, and for the total constituent concentration of reactive sulfide and reactive cyanide on batches of treated waste (see Section 6—*Verification Testing Conditions*).

Occidental produces chlorine, sodium hydroxide (caustic soda), and potassium hydroxide using a mercury cell process which electrolyzes saturated salt solutions (*i.e.*, sodium chloride or potassium chloride brine). The sodium chloride and potassium chloride systems are described further below.

The saturated salt brine solution which is fed to the electrolytic mercury cell is prepared by dissolving sodium chloride (rock salt, or NaCL) or potassium chloride (KCl) in the depleted brine solution recycled from the mercury cells. After clarification and filtration to remove impurities in the salt, the separate NaCl and KCl brines flow into their respective electrolytic cells. The solid impurities removed from the brine saturators and clarifiers are the K071 waste described in Occidental's petition. Occidental is currently generating three K071 waste streams (two sodium chloride K071 waste and one potassium chloride waste). Each individual stream is described below.

1. Sodium Chloride Saturator Cleanings

The raw rock salt used to produce a sodium chloride brine contains many impurities, consisting primarily of calcium sulfate, magnesium, iron, aluminum and sand. The inert and insoluble materials which are collected on the salt support screen are a portion of Occidental's K071 wastes and are referred to herein as the sodium chloride saturator cleanings (NaCl-SC). These NaCl-SC wastes are segregated from Occidental's remaining K071 wastes as discussed below. In the full scale system, the NaCl-SC wastes will be manually removed from the salt support screen as necessary (when sufficient volume for efficient treatment has accumulated) and treated. (Occidental must monitor the volume of the NaCl-SC wastes which accumulate on the screen; if excessive volumes accumulate, then the brine system will subsequently slow, and the mercury cell process will no longer operate efficiently.) Treatment of the NaCl-SC wastes is described further below. The K071 insoluble waste materials which settle in the bottom of the saturator tank are transferred every 8 hours to the brine recycle basins. These K071 wastes are discussed below.

2. Sodium Chloride Treatment Sludge

After the brine is re-saturated, it is transferred to the brine treatment area, where it is treated with certain chemicals in a prescribed ratio in accordance with Occidental's proprietary processing sequence.[1] The chemically treated brine then flows by gravity to one of two clarifiers. As settling occurs in these clarifiers, the K071 clarifier sludges accumulate. Solids are removed from the bottom of the clarifier by a slow-moving rake to a sump. A pump transfers the sludges to the brine recycle basins. The clear brine is transferred to the brine filtration area. Both sand and precoated pressure leaf filters are used.[2] When the filters are periodically backwashed, the residual material from the backwashing is transferred to the brine recycle basins.

Thus, the recycle bins collect the K071 wastes from four separate streams: (1) saturator tanks sludges; (2) clarifier sludges; (3) pressure-leaf filter wastes; and (4) sand filter wastes. These four waste streams are combined to form what is referred to herein as the NaCl Treatment Sludge (NaCl-TS).

Once the sodium chloride brine is inside the electrolytic mercury cell and current is applied, the sodium and chloride are split. The chloride forms chlorine gas (Cl_2), and the sodium ion forms an amalgam with the mercury. Depleted brine is recycled back to the sodium chloride saturator tank. The amalgam flows out of the electrolytic cell into a decomposer unit. This unit is packed with carbon; water is fed into this vessel along with the amalgam. The water reacts with the amalgam to form caustic soda, hydrogen and mercury. The mercury is then recycled back to the electrolytic cell to repeat the process. The caustic soda and hydrogen are further processed and sold as products.

3. Potassium Chloride Treatment Sludge

The potassium chloride brine system is somewhat similar to the sodium chloride system. However, the potassium chloride salt is received in a very pure form and contains very few impurities. Thus, no salt screen is needed to remove inerts and other impurities and no saturator cleanings are generated in the saturation unit. Brine treatment consists of simple filtration to remove any rust that may have mixed with the salt during railcar shipment to the facility. The filters are periodically backwashed with brine solution to a holding tank. The holding tank bottoms are referred to herein as

[1] Occidental claimed that its brine treatment process is confidential and proprietary; therefore, the Agency is handling information on Occidental's treatment process as Confidential Business Information (CBI).

[2] The precoat material is either Solka Floc or activated carbon. (Solka Floc does not contain any hazardous constituents as listed in 40 CFR part 261 Appendix VIII.)

potassium chloride treatment sludge (KCl–TS), which are also K071 wastes and the subject of Occidental's petition.

Once the potassium chloride brine is inside the electrolytic mercury cell, the potassium and chloride are split. The chloride forms chlorine gas (Cl_2) and the potassium ion forms an amalgam with the mercury. The depleted brine is recycled to the potassium chloride saturator tank. The amalgam flows out of the electrolytic cell into a decomposer. The water added to the decomposer reacts with the amalgam to form potassium hydroxide, hydrogen and mercury. The mercury is then recycled back to the electrolytic cell. The potassium hydroxide and hydrogen are further processed and sold as products.

Occidental proposes to treat the NaCl–TS wastes using a three-step filtration process, producing a final filtercake residue. As part of this treatment, Occidental proposes that thickened (dewatered) K071 wastes from the saturator tank and filters be combined with thickened clarifier sludges in a holding tank. These combined sludges will then be pumped to a dewatering filter. First stage filtration will debrine the waste and return the filtrate to the brine treatment system. Second stage filtration will consist of a water wash step to wash away the salt and mercury from the dewatered filter cake. (Wash water may either be re-used in a process slurry (where the additional mercury will have no effect) or will be transferred to the on-site wastewater treatment facility, and discharged under the conditions of a National Pollution Discharge Elimination System (NPDES) permit.) Third stage filtration will dewater the cake to its final form. (Wash water from the second and third stage filtrations also will be either transferred to the wastewater treatment system or recycled back to the mercury brine system.) The filtercake will be discharged to a hopper and dumped to a collection box prior to final disposal at an off-site non-hazardous waste facility if the exclusion is granted.

For laboratory-scale testing purposes, a sample of well-mixed raw NaCl–TS waste was transferred to pre-wetted filter paper. (Filter was pre-wetted to aid the filtration process.) The sample was then washed with deionized water and subsequently dried using vacuum filtration. The dewatered filter cake was removed from the filter and mixed well with deionized water. The slurry was then dewatered again using vacuum filtration.

Occidental's proposed treatment for the KCl–TS waste will be similar to the NaCl–TS waste described above. For laboratory-scale testing purposes, a sample of well-mixed KCl sludge was transferred to pre-wetted filter paper along with a 50% by weight Norit carbon to aid in filtration. The sample/carbon mixture was then washed with deionized water and subsequently dewatered using vacuum filtration.

As part of the treatment for the NaCl-SC waste, Occidental proposes to wash the wastes after transfer from the salt support screen to a batch wash-hopper to remove salt and soluble mercury. (Mercury will be recovered and recycled back to the process.) The waste will be filter drained prior to testing and disposal.

Occidental has tested the three treatment processes described above and submitted sample data from this laboratory-scale unit as the basis for an upfront delisting. Occidental plans to construct a full-scale treatment facility if their laboratory-scale system has produced wastes that support granting an upfront delisting. As noted above, if the petitioned wastes are delisted, the resulting dewatered K071 treated residues will be disposed at an off-site non-hazardous waste facility.

To collect representative samples for upfront delisting demonstrations, petitioners are normally requested to collect a minimum of four composite samples comprised of independent grab samples collected over time. See "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA Office of Solid Waste (EPA/530–SW–85–003, April 1986). Representative sampling for each waste stream is described below.

1. Sodium Chloride Saturator Cleanings (NaCl-SC)

Samples of the NaCl-SC waste were collected from the support screen where it accumulates. A core sample was collected from each quadrant of the circular screen using a dipper; the samples were immediately transferred to a plastic container. The four quadrant samples were then composited into a single sample, and subjected to the laboratory-scale treatment described above. One composite sample was obtained each week for a period of five weeks (February 20, 1987 to March 25, 1987).

2. Sodium Chloride Treatment Sludges (NaCl-TS)

Occidental collected separate samples of each of the four streams (saturator tank sludges, clarifier sludges, pressure leaf filters and sand filters) which comprise the NaCl-TS. The four NaCl-TS waste streams were initially pumped to separate decant tanks, to allow wastes to settle so that supernatant brine could be separated from sludges. Each individual sample was collected from its decant tank through a valve or sampling hose and transferred into a plastic sample container. The four stream samples were subsequently composited using amounts which are proportional to the solids generation rate of each stream. (The Agency agrees the use of composite samples is most appropriate here, because if delisted, Occidental intends to combine the four individual wastestreams prior to disposal as non-hazardous. The Agency further believes that even if the bulk of the hazardous constituents were to accumulate at high concentrations in any one of the four separate wastestreams (enough to cause the individual steam sample to fail), the composite sample would indicate such an anomaly). Each stream was sampled on a weekly basis over the period of June 26, 1987 to July 7, 1987, producing six composite samples. All composite samples were subjected to the laboratory-scale treatment described shortly after collection.

As noted above, the Agency typically requires petitioners to collect a minimum of four composite samples over a representative time period. The Agency reviewed Occidental's sampling strategy to determine if their waste samples are representative of their manufacturing and treatment process. As part of their demonstration, Occidental noted that its mercury cell process is a continuous operation with a continuous brine feed and continuous brine mud waste treatment. Occidental also noted that the only raw material used in their mercury cell brine system is either rock salt (for the NaCl system) or potassium chloride salt (for the KCl system), both of which exhibit minimal variation and are obtained from one of two suppliers.

Based on the minimal amount of variation in the manufacturing and treatment process, the Agency agrees that the NaCl-TS waste samples collected by Occidental are representative of their manufacturing and treatment process. In addition, the Agency recognizes the fact that Occidental's data were obtained from a laboratory-scale system. In order to verify that the full-scale treatment system is operating properly, the Agency proposes that treated batches from the full-scale system be required to undergo verification testing. Any batches which

fail to meet the maximum allowable concentrations for the constituent must be either re-treated or managed as hazardous.

3. Potassium Chloride Treatment Sludges

The KCl-TS grab samples were obtained during the draining of the KCl filter backwash tank. (The KCl-TS waste stream is generated daily by draining the filter backwash tank to waste containers.) Waste samples were collected in plastic buckets; samples were then allowed to settle to decant brine supernatant prior to laboratory-scale treatment. Six composite samples were collected over the period of November 6, 1987 to November 17, 1987, and treatment was conducted shortly thereafter. The sampling strategy used for the KCl-TS wastes is similar to the one used for the NaCl-TS wastes described above.

The eighteen composite samples of treated waste (six from the treated NaCl-TS wastes, six from the treated NaCl-TS wastes, and six from the treated KCl-TS wastes) were analyzed for total constituent concentrations (*i.e.*, mass of a particular constituent per mass of waste), and extraction procedure (EP) leachate concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of all the EP toxic metals and nickel. One composite sample from the NaCl-TS sample set, one from the NaCl-SC sample set and one from the KCl-TS sample set were also analyzed for ignitability, corrosivity, reactivity, total oil and grease, and total cyanide.

Occidental claims that, due to a consistent manufacturing and treatment process, the analyses from samples collected over the corresponding time periods (for each of the three waste streams) are representative of any variation in the waste or the treatment residue constituent concentrations.

3. Agency Analysis

Occidental used SW-846 Methods 7060-7760 to quantify the total constituent concentrations of the EP toxic metals and nickel in the treated mercury brine mud wastes. In addition to these methods, SW-846 Method 1310 (standard EP) was used to quantitate the leachable concentrations of the EP toxic metals and nickel in the treated mercury brine mud wastes. Method 9010 was used to determine the total cyanide concentration in the three wastes. Tables 1 through 3 present the maximum total constituent concentrations of the EP toxic metals, nickel and cyanide in the NaCl-SC, NaCl-TS and KCl-TS wastes, respectively. Tables 4 through 6 present the maximum EP leachate values of the EP toxic metals, nickel and cyanide in the three waste streams. Detection limits represent the lowest concentrations achievable by Occidental when using the appropriate SW-846 analytical methods to analyze its wastes. (Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising detection limits.)

TABLE 1.—Maximum Total Constituent Concentrations NaCl Saturator Cleanings (NaCl-SC)

Constituents	Total Constituent concentrations (mg/kg)
Arsenic	53
Barium	200
Cadmium	5.2
Chromium	820
Lead	110
Mercury	240
Selenium	<0.5
Silver	4.7
Nickel	260
Cyanide	ND (<0.05)

ND: Not Detected. Denotes concentrations below the detection limit shown in parentheses.

TABLE 2.—Maximum Total Constituent Concentrations NaCl Treatment Sludge (NaCl-TS)

Constituents	Total constituent concentrations (mg/kg)
Arsenic	4.3
Barium	37
Cadmium	3.4
Chromium	26
Lead	48
Mercury	150
Selenium	ND (<0.5)
Silver	0.89
Nickel	12
Cyanide	0.95

ND: Not Detected. Denotes concentrations below the detection limit shown in parentheses.

TABLE 3.—Maximum Total Constituent Concentrations KCl Treatment Sludges (KCl-TS)

Constituents	Total constituent concentrations (mg/kg)
Arsenic	2.8
Barium	13
Cadmium	0.61
Chromium	42
Lead	1200
Mercury	85
Selenium	ND (<0.6)
Silver	3.0

TABLE 3.—Maximum Total Constituent Concentrations KCl Treatment Sludges (KCl-TS)—Continued

Constituents	Total constituent concentrations (mg/kg)
Nickel	110
Cyanide	0.71

ND: Not Detected. Denotes concentrations below the detection limit shown in parentheses.

TABLE4.—Maximum EP Leachate Concentrations NaCl Saturator Cleanings (NaCl-SC)

Constituents	Maximum EP leachate concentrations (mg/L)
Arsenic	ND (<0.005)
Barium	0.52
Cadmium	0.014
Chromium	0.019
Lead	0.11
Mercury	.0.011
Selenium	ND (<0.005)
Silver	ND (<0.005)
Nickel	1.2
Cyanide (1)	ND (<0.05)

ND: Not Detected. Denotes concentrations below the detection limit shown in parentheses.

(1) Calculated by assessing a dilution factor of twenty times (based on 100 grams of sample and dilution with 2 liters of water) and a theoretical worst-case leaching of 100 percent.

TABLE 5.—Maximum EP Leachate Concentrations NaCl Treatment Sludge (NaCl-TS)

Constituents	Maxium EP leachate concentrations (mg/L)
Arsenic	ND (<0.005)
Barium	0.4
Cadmium	0.016
Chromium	0.011
Lead	0.31
Mercury	0.024
Selenium	ND (<0.005)
Silver	ND (<0.005)
Nickel	0.08
Cyanide (1)	ND (<0.05)

ND: Not Detected. Denotes concentrations below the detection limit shown in parentheses.

(1) See Footnote (1) to Table 4.

TABLE 6.—Maximum EP Leachate Concentrations KCl Treatment Sludge (KCl-TS)

Constituents	Total EP leachate concentrations (mg/L)
Arsenic	ND (<0.005)
Barium	0.08
Cadmium	ND (<0.005)
Chromium	0.008
Lead	ND (<0.03)

TABLE 6.—Maximum EP Leachate Concentrations KCl Treatment Sludge (KCl-TS)—Continued

Constituents	Total EP leachate concentrations (mg/L)
Mercury	0.0074
Selenium	ND (<0.005)
Silver	ND (<0.005)
Nickel	0.13
Cyanide (1)	ND (<0.05)

ND: Not Detected. Denotes concentrations below the detection limit shown in parentheses.
(1) See Footnote (1) to Table 4.

Using SW-846 Method 9071, Occidental determined that the maximum oil and grease content of the three streams were as follows: the NaCl-SC wastes contained 0.01 percent, the NaCl-TS wastes contained 0.012 percent and the KC1-TS wastes contained 0.67 percent. Therefore, the EP analyses did not need to be modified in accordance with the Oily Waste EP methodology (*i.e.*, wastes having more than 1 percent total oil and grease may either have significant concentrations of the constituents of concern in the oil phase which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample). See SW-846 Method 1330. On the basis of information provided by Occidental, pursuant to 40 CFR 260.22, none of the samples analyzed exhibited the characteristics of ignitability, corrosivity or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

Based on the level of total cyanide in the NaCl-SC (<0.05 mg/L), the NaCl-TS (0.95 mg/L) and the KCl-TS (0.71 mg/L), the Agency estimated the EP leachate concentrations of cyanide by assessing a dilution factor of twenty times (based on 10 grams of sample and dilution with 2 liters of water) and a theoretical worst-case leaching of 100 percent.

Occidental submitted a signed certification stating that, based on current annual waste generaton and experimental treatment data for the wastes, its maximum annual generation rate of NaCl-TS wastes, NaCl-SC wastes will be 960 tons, 48 tons, and 12 tons, respectively. The Agency reviews a petitioner to re-evaluate estimated waste volume. EPA accepts Occidental's certified estimates.

EPA does not generally verify submitted test data before proposing delisting decisions, and it has not verified the data upon which it proposes to grant Occidental's exclusion. The sworn affadavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has initiated a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions, and it may select this facility in the future for spot-check sampling.

4. Agency Evaluation

The Agency considered the appropriateness of alternative disposal scenarios for treated mercury brine mud wastes and decided that a landfill scenario is the most reasonable, worst-case scenario. Under a landfill disposal scenario, the major exposure route of concern for most hazardous constituents would be through ingestion of contaminated ground water. Thus, the Agency evaluated the petitioned wastes using its vertical and horizontal spread (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for a detailed description of the VHS model and its parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters to predict reasonable worst-case contaminant levels in the ground water at a hypothetical receptor well (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The Agency requests comments on the use of the VHS model as applied to the evaluaton of Occidental's wastes.

Specifically, the Agency used the VHS model to evaluate the mobility of the hazardous inorganic constituents detected in the EP extract of Occidental's treated mercury brine mud wastes. Although Occidental's three K071 wastes are generated separately and at different rates, the Agency believes it is reasonable to assume that Occidental will simultaneously dispose of its three treated K071 residues. Thus, the combined estimated generation rate of the three treated wastes (1018 tons per year) and the maximum EP leachate value for each constituent (from the collection of data from the three wastes) were used as input parameters to the VHS model. [It should be noted that the use of the maximum EP leachate value is a more conservative approach in that it does not account for any dilution that may occur, if the three wastestreams were actually mixed.] These parameters provided the VHS model compliance-point concentratons shown in Table 7. VHS model compliance-point concentrations shown in Table 7. VHS model compliance-point concentrations were generated only for those constituents of concern which were detected above the appropriate detection limits, as noted in Tables 4–6. The Agency believes it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specificaly, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 7.—VHS MODEL: CALCULATED COMPLIANCE—POINT CONCENTRATIONS (*1*) *Combined Total of:* NaCl Saturator Cleanings (NaCl-SC) NaCl Treatment Sludge (NaCl-TS) Potassium Chloride Treatment Sludge (KCl-TS)

Constituents	Max. EP concs. (mg/L)	Comp. pt. concs. (mg/L)	Levels of reg. concern (mg/L) (2)
Barium	0.052 (NaCl-SC)	0.0335	1.0
Cadmium	0.016 (NaCl-TS)	0.0010	0.01
Chromium	0.019 (NaCl-SC)	0.0012	0.05
Lead	0.31 (NaCl-TS)	0.0200	0.05
Mercury	0.024 (NaCl-TS)	0.0015	0.002
Nickel	1.2 (NaCl-SC)	0.0773	0.5

(*1*) VHS model calculations based on a total annual generation of 1018 tons per year (combined total of all three waste generation rates) and the maximum EP leachate value for each constituent (from the collection of data from the three wastes.
(*2*) See "Docket Report of Health-Based Regulatory Levels and Solubilities used in the Evaluation of Delisting Petitions," June 8, 1988, U.S. EPA RCRA Docket.

The NaCl-SC, NaCl-TS and KCl-TS wastes exhibited barium, cadmium, chromium, lead, mercury and nickel concentrations at the compliance point below the health-based levels used for delisting decision-making.

The concentration of total cyanide is equal to or less than 0.05, 0.95, and 0.71 mg/L in the NaCl-SC, NaCl-TS, and KCl-TS wastes, respectively. (See Tables 1–3.) Thus, the Agency believes that the concentration of reactive cyanide in the total volume of the combined waste will be below the Agencys' interim standard of 250 ppm. Occidental also provided data for reactive sulfide. None of the individual treated mercury brine mud samples exhibited levels of reactive sulfide greater than 10 ppm. This is well below the Agency's interim standard of 500 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 22, 1985, Internal Agency Memorandum, in the RCRA public docket.

The Agency has concluded, after reviewing Occidental's processes, waste treatment and raw materials list, that no other hazardous constituents of concern are being used by Occidental and that no other constituents of concern are likely to be present or formed as reaction products or by-products of Occidental's wastes. Analytical data provided by Occidental show that none of the petitioned K071 wastes exhibit any of the characteristics of ignitability, corrosivity, or reactivity.

5. Conclusion

The Agency believes that Occidental's treatment system can render its treated mercury brine mud wastes non-hazardous. The manufacturing and treatment proceses are believed to be uniform and consistent since the facility neither operates as a job shop nor has seasonable product variations. As noted earlier, the single raw material used by Occidental (rock salt for the NaCl system and potassium choloride for the KCl system) is obtained through one of only two suppliers, and is of very consistent quality. (In particular, rock salt is a naturally occurring salt). Thus, the Agency believes that the samples of treated waste analyzed reflect the day-to-day variations in manufacturing and treatment processes for the NaCl-TS, NaCl-SC and KCl-TS wastes. As stated earlier, use of the maximum EP leachate value for each constituent in the VHS model is a more conservative approach in that it does not account for any dilution that might have occurred if the three wastestreams were actually mixed.

The Agency has determined, however, through its review of similar petitions from mercury cell operations, that the total mercury concentration of the treated waste may vary to some extent, depending on the amount of contaminant precipitation which occurs during treatment. As a result of the possible variation in the total mercury concentration, Occidental requested an exclusion conditioned upon the collection of samples of treated mercury brine mud wastes and the subsequent analysis for EP levels of mercury. The Agency believes this testing condition will address possible variations in the EP leachable mercury levels occurring in Occidental's treated brine muds.

The Agency, therefore, is proposing that all three of Occidental's mercury brine wastes described in the petition (NaCl-SC, NaCl-Ts and KCl-TS), once they meet certain testing requirements, be considered non-hazardous, because they should not present a hazard to either human health or the environment. The Agency proposes to grant an upfront exclusion to the Occidental Chemical Corporation, located in Delaware City, Delaware, for its treated mercury brine mud wastes described in their petition as EPA Hazardous Waste No. K071. If the proposed rule becomes effective, and the testing requirements are met, the treated mercury brine mud wastes would no longer be subject to regulation under 40 CFR parts 262 through 268 and the permitting standards of 40 CFR part 270.

6. Verification Testing Conditions

As stated earlier, the proposed exclusion contains verification testing requirements. If the final exclusion is granted, the petitioner will be required both to verify that the treatment system is on-line and operating as described in the petition, and to show that, once on-line, the treatment system can meet the Agency's verification testing limitations (i.e., "delisting levels"). All sampling and analyses (including quality control procedures) must be performed according to SW–846 methodologies. These proposed conditions are specific to the upfront exclusion petitioned for Occidental. This proposed exclusion is conditional upon the following:

(1) *Initial Testing.* During the first four weeks of full-scale treatment operation, Occidental must do the following:

(A) Collect representative grab samples from every batch of the three treated wastestreams (sodium chloride saturator cleanings (NaCl-SC), sodium chloride treatment sludges (NaCl-TS) and potassium chloride treatment sludges (KCl-TS)) on a daily basis, and composite the grab samples to produce three separate weekly composite samples (of each type of K071 waste). The three weekly composite samples, prior to disposal, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using deionized water in the cyanide extractions), and the total constituent concentrations of reactive sulfide and reactive cyanide. Occidental must report the analytical test data, including all quality control data, obtained during this initial period, no later than 90 days after the treatment of the first full-scale batch.

(B) Collect respresentative grap samples of each batch of the three treatment wastestreams (NaCl-SC, naCl-TS and KCl-TS) and composite the grab samples to produce three separate composite samples (of each type of K071 waste) on a daily basis. The three daily composite samples must be analyzed prior to its disposal for EP leachate concentration of mercury. Occidental must report the analytical test data, including all quality control data, obtained during this initial period, no later than 90 days after the treatment of the first full-scale batch.

(2) *Subsequent Testing.* After the first four weeks of full-scale treatment operation, Occidental must do the following:

(A) Continue to sample and test as described in condition (1)(A). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Delaware. These testing requirements shall be terminated by EPA when the results of four consecutive weekly composite samples of the petitioned waste, obtained from either the initial testing or subsequent testing, show the maximum allowable levels in condition (3) are not exceeded (in all three wastes) and the Section Chief, Variances Section, notifies Occidental that the requirements of this condition have been lifted.

(B) Continue to sample and test for mercury as described in condition (1)(B).

Occidental must compile and store on-site for a minimum for three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Delaware. These testing requirements shall be terminated and replaced with the requirements of condition (2)(C), if Occidental provides EPA with analytical and quality control data for thirty consecutive batches of treated material, collected as described in condition (1)(B), demonstrating that the EP leachable level of mercury in condition (3) is not exceeded (in all three treated wastes), and the Section Chief, Variances Section, notifies Occidental that the testing in condition (2)(B) may be replaced with (2)(C).

(C) (If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition). Collect representative grab samples from each batch of the three treated wastestreams (NaCl-SC, NaCl-TS, and KCl-TS) on a daily basis and composite the grab samples to produce three separate weekly composite samples (of each type of K071 waste). The three weekly composite samples,

prior to disposal, must be analyzed for the EP leachate concentration of mercury. Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Delaware.

(3) If, under conditions (1) or (2), the EP leachate concentrations for chromium, lead, arsenic or silver exceed 0.77 mg/L; for barium exceeds 15.5 mg/L; for cadmium or selenium exceed 0.16 mg/L; for mercury exceeds 0.031 mg/L; for nickel or total cyanide exceeds 10.9 mg/L or for reactive sulfide exceed 500 mg/kg, the waste must either be re-treated until it meets these levels or managed and disposed in accordance with subtitle C of RCRA.

The Agency is proposing to require Occidental to continually test each batch of treated waste for the EP leachate concentration of mercury prior to disposal or recycling of the waste in order to ensure that the EP leachate concentration of mercury has been reduced to below the level of regulatory concern. This requirement is included because, as noted earlier, the mercury levels in the treated waste may vary to some extent.

(4)(A) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) when the full-scale system is on-line and waste treatment has begun. All data obtained through condition (1) and (2) must be submitted to the Section Chief, Variances Section, PSPD/OSW (OS-343), U.S. EPA, 401 M Street SW., Washington, DC 20460 within the time period required in conditions (1) and (2). At the Section Chief's request, Occidental must submit any other analytical data obtained through conditions (1) and (2) to the above address, within the time period specified by the Section Chief. Failure to submit the required data will be considered by the Agency sufficient basis to revoke Occidental's exclusion to the extent directed by EPA. All data (either submitted to EPA or maintained on site) must be acocmpanied by the following certification statement:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

(Name of Certifying Person)

(Title of Certifying Person)

Date

The Agency is proposing a mechanism both to collect a minimum of four weekly composite samples of each waste and to terminate the testing and reporting requirements of conditions (2)(A) after four consecutive weeks of meeting the delisting levels, for the reasons stated below.

First, the Agency is proposing to require sufficient analytical data to show that the treatment system is on-line and operating properly. The Agency determined through its review of similar petitions that approximately four weeks are required for a facility to train operators and collect sufficient data to verify that the full-scale treatment process is operating correctly. Accordingly, the Agency is proposing that Occidental be required to collect a minimum of four weekly composite samples of each of the three wastes. (If Occidental needs more than the four initial weeks to bring its full-scale treatment process up to specifications in order to meet the delisting levels of condition (3), the terms of condition (4) would require four consecutive weeks upon meeting specifications.) The limits set forth in the conditions are based on Occidental's total estimated maximum generation rate (for the three wastes combined) of 1018 tons per year. As noted earlier, the Agency believes it is reasonable to assume that Occidental will simultaneously dispose of its three treatment residues. Thus, the maximum waste generation rate was used to determine the conditional testing delisting limits.

Second, based on the pilot-scale data submitted by Occidental, the characteristics of the untreated wastes (NaC1-SC, NaC1-TS and KC1-TS), Occidental's consistent mercury cell process, and the consistency of the single raw material used in the mercury cell process, the Agency believes that consistently non-hazardous levels of the EP toxic metals (except mercury), nickel, cyanide, reactive sulfide, and reactive cyanide can be generated from Occidental's mercury brine mud treatment process. Thus, the Agency believes that in this case, a requirement for continued testing, after four consecutive weekly samples meet the delisting levels of condition (3), would be excessive. The continued testing requirement for mercury is discussed further below.

With regard to the continued testing for mercury, the Agency expects that the total mercury concentration of the treated waste may vary to some extent as noted earlier, depending on the amount of constituent precipitation which occurs during treatment. The Agency realized that the presence of significant mercury concentrations in KO71 wastes was one of the reasons for listing KO71 wastes as "T" (toxic) wastes. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, Section 3001, Identification and Listing of Hazardous Waste, 1980. The Agency however, believes that the date presented in the Background Document characterize the physical/chemical nature of mercury contaminated mercury brine muds (such as untreated KC1-TS), and these data are not representative of the physical/chemical nature of Occidental's treated wastes.

As noted earlier, the Agency expects that this waste will be disposed of in a municipal landfill, where soil conditions would be midly acidic. The EP extraction procedures is the most appropriate analytical tool to evaluate the potential leachability of this waste in an acidic environment. For this waste, EPA believes that continued evaluation of the EP leachable concentration as required by the conditions of this exclusion will be adequate to protect human health and the enviroment. Furthermore, the Agency has not developed a health-based delisting criteria for evaluating the total constituent concentration of mercury. Therefore, EPA chose levels of mercury in the EP leachate, rather than the total mercury in the waste itself.

The Agency has incorporated a reduction in mercury testing to be implemented once Occidental meets the delisting limit for mercury in thirty consecutive batches. The Agency believes that the reduction in the frequency of analysis from daily to weekly composites will provide sufficient protection to human health and the environment, once it has been established that the treatment system can render the waste non-hazardous with regard to mercury content.

Lastly, the termination of the sampling and reporting requirements of condition (2), after four consecutive weekly composite samples of each treated waste meet the delisting levels of condition (3), is consistent with existing

policy that testing may be terminated for continuously generated wastes after taking a minimum of four representative samples if those wastes are well mixed and uniformly produced. See "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530-SW-85-003), April 1985.

Future upfront delisting proposals and decisions issued by the Agency may include different testing and reporting requirements based on an evaluation of the uniformity of the process and of the waste, of the waste volume (including whether there is a fixed volume of waste or an infinite source), and of other factors normally considered in the petition review process. For example, wastes with variable constituent concentrations, discussed in previous delisting decisions (e.g., see 51 *FR* 41323, November 14, 1986) may require continuous batch testing. The inclusion of conditions for continued mercury testing in today's proposal is also due to possible variations in mercury concentration in the treated waste.

If made final, the proposed exclusion only applies to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition or increase in waste volume occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisting waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six month period to come into compliance. That is the case here, because this rule, if promulgated, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entitles (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provision of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. chapter 35) and have been assigned OMB Control Number 2050-0053VII.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: September 27, 1989.

Jeffrey D. Denit,
Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix IX, add the following wastestreams in alphabetical order:

Appendix IX—Waste Excluded Under §§ 260.20 and 260.22

TABLE 2.—WASTE EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	*
Occidental Chemical	Delaware City, DE	Sodium chloride treatment sludge (NaC1-TS), sodium chloride saturator cleanings (NaCal-SC), and potassium chloride treatment sludge (KCl-TS) (all classified as EPA Hazardous Waste No. K071) generated from the mercury cell process where prepurified brine is not used. This exclusion becomes effective October 5, 1989 and is conditioned upon the collection of data from Occidental's full-scale brine treatment system because Occidental's request for exclusion was based on data from a laboratory-scale brine treatment process. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment system is in operation, Occidental must implement a testing program for the petitioned waste. All sampling and analyses (including quality control procedures) must be performed according to SW-846 methodologies. This testing program must meet the following conditions for the exclusion to be valid: (1) Initial Testing: During the first four weeks of full-scale treatment operation, Occidental must do the following: (A) Collect representative grab samples from each batch of the three treated wastestreams (sodium chloride saturator cleanings (NaC1-SC), sodium chloride treatment sludges (NaCl-TS) and potassium chloride treatment sludges (KC1-TS)) on a daily basis, and composite the grab samples to produce three separate weekly composite samples (of each type of K071 waste). The three weekly composite samples, prior to disposal, must be analyzed for the EP leachate concentrations of all the EP toxic metals (except mercury), nickel, and cyanide (using deionized water in the cyanide extractions), and the total constituent concentrations of reactive sulfide and reactive cyanide. Occidental must report the analytical test data, including all quality control data, obtained during this initial period, no later than 90 days after the treatment of the first full-scale batch. (B) Collect representative grab samples of each batch of the three treated wastestreams (NaC1-SC, NaC1-TS and KC1-TS) and composite the grab samples to produce three separate composite samples (of each type of K071 waste) on a daily basis. The three daily composite samples must be analyzed prior to disposal for EP leachate concentration of mercury. Occidental must report the analytical test data, including all quality control data, obtained during this initial period, no later than 90 days after the treatment of the first full-scale batch. (2) *Subsequent Testing* After the first four weeks of full-scale treatment operation, Occidental must do the following (all sampling and analyses (including quality control procedures) must be performed according to SW-846 procedures): (A) Continue to sample and test as described in condition (1)(A). Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Delaware. These testing requirements shall be terminated by EPA when the results of four consecutive weekly composite samples of the petitioned waste, obtained from either the initial testing or subsequent testing, show the maximum allowable levels in condition (3) are not exceeded (in all three wastes) and the Section Chief, Variance Section, notifies Occidental that the requirements of this condition have been lifted. (B) Continue to sample and test for mercury as described in condition (1)(B). Occidental must compile and store on-site for a minimum for three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Delaware. These testing requirements shall be terminated and replaced with the requirements of condition (2)(C), if Occidental provides EPA with analytical and quality control data for thirty consecutive batches of treated material, collected as described in condition (1)(B), demonstrating that the EP leachable level of mercury in condition (3) is not exceeded (in all three treated wastes), and the Section Chief, Variances Section, notifies Occidental that the testing in condition (2)(B) may be replaced with (2)(C). (C) [If the conditions in (2)(B) are satisfied, the testing requirements for mercury in (2)(B) shall be replaced with the following condition]. Collect representative grab samples from each batch of the three treated wastestreams (NaC1-SC, NaC1-TS, and KC1-TS) on a daily basis and composite the grab samples to produce three separate weekly composite samples (of each type of K071 waste). The three weekly composite samples, prior to disposal, must be analyzed for the EP leachate concentration of mercury. Occidental must compile and store on-site for a minimum of three years all analytical data and quality control data. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Delaware. (3) If, under conditions (1) or (2), the following EP leachate concentrations for chromium, lead, arsenic or silver exceed 0.77 mg/L; for barium exceeds 15.5 mg/L; for cadmium or selenium exceed 0.16 mg/L; for mercury exceeds 0.031 mg/L; for nickel or for total cyanide exceed 10.9 mg/L or for reactive sulfide exceed 500 mg/kg, the waste must either be re-treated or managed and disposed in accordance with all applicable hazardous waste regulations.

TABLE 2.—WASTE EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(4)(A) Within one week of system start-up, Occidental must notify the Section Chief, Variances Section (see address below) when the full-scale system is on-line and waste treatment has begun. All data obtained trough condition (1) must be submitted to the Section Chief, Variances Section, PSPD/OSW (OS-343), U.S. EPA, 401 M Street, S.W., Washington, DC 20460 within the time period required in conditions (1) and (2). At the Sections Chief's request, Occidental must submit any other analytical data obtained through conditions (1) and (2) to the above address, within the time period specified by the Section Chief. Failure to submit the required data will be considered by the Agency sufficient basis to revoke Occidental's exclusion to the extent directed by EPA. All data (either submitted to EPA or maintained on site) must be accompanied by the following certification statement: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion".

[FR Doc. 89-23582 Filed 10-4-89; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 31, 33, 35, 70, 71, 75, 78, 90, 91, 94, 97, 107, 108, 109, 112, 154, 160, 161, 167, 168, 188, 189, 192, 196, and 199

[CGD 84-069]

RIN 2115-AB72

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; reopening of comment period and notice of public hearing.

SUMMARY: On April 21, 1989, the Coast Guard published a notice of proposed rulemaking (54 FR 16198) proposing a complete revision of the lifesaving equipment regulations for tank vessels, cargo and miscellaneous vessels, mobile offshore drilling units, passenger vessels, nautical school ships, offshore supply vessels, and oceanographic research vessels. The primary purpose of the project is to implement the provisions of the new chapter III of the Safety of Life at Sea Convention 1974, as amended in 1983, which came into force July 1, 1986. The proposed rules would also implement a number of recommendations arising from major vessel casualties. Lifesaving regulations for Great Lakes vessels and certain vessels in domestic trade which are not covered by the Safety of Life at Sea Convention would also be revised.

Because of requests for a public hearing and additional time to comment on the proposed rulemaking, the comment period is being reopened for 90 additional days. A public hearing will also be held on the date and in the location specified below.

DATES: Comments must be submitted on or before January 3, 1990. A public hearing will be held Tuesday, October 17, 1989, beginning at 10:00 a.m.

ADDRESSES: Comments should be submitted to the Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 84-069), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001. Between the hours of 8:00 a.m. and 3:00 p.m. Monday through Friday, except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second Street SW., Washington, DC, 20593-0001, (202) 267-1477.

The location of the public hearing is South Auditorium (4th Floor), Henry Jackson Federal Building, 915 Second Ave., Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Marine Safety, Security, and Environmental Protection (G-MVI-3), Room 1404, U.S. Coast Guard, 2100 Second Steeet SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Written comments

The notice of proposed rulemaking published on April 21, 1989 invited and encouraged interested persons to participate in the proposed rulemaking by submitting written comments, including views, data or arguments by August 21, 1989. Several persons requested additional time to prepare comments citing the need to consider other related rulemaking proposals in formulating their comments, and the difficulty in preparing meaningful responses within the original 120 day comment period. Because of these requests, the comment period is reopened for 90 additional days until January 3, 1990.

Comments should include the name and address of the person making them, identify this Notice (CGD 84-069) and the specific section to which each comment applies, and give reasons for the comments. If an acknowledgment is desired, a stamped, self-addressed post card shuld be enclosed. The proposal

may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Public hearing

A public hearing was requested by the State of Washington, Marine Division, operators of the Washington State Ferries, for the purpose of hearing public comments on the lifesaving rules proposed for passenger ferries. The rules proposed were, in part, responsive to Congressional direction in the 1984 Coast Guard Authorization Act which required the Secretary of Transportation to proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries. In their request for public hearing, Washington State Ferries stated that the proposed regulations would have a significant financial effect on the ferry system.

The public hearing is specifically for the purpose of hearing public comments on the lifesaving proposals for passenger ferries. If speakers wish to make comments on other portions of the proposed regulations, they will be provided an opportunity to do so if time remains after all speakers on the subject of passenger ferries have been heard. As a result of the request, a public hearing will be held at the following location, beginning at 10:00 a.m. and ending at 5:00 p.m., or earlier if all speakers have been heard:

Seattle, Washington; Tuesday, October 17, 1989, South Auditorium (4th Floor), Henry Jackson Federal Building, 915 Second Ave., Seattle, WA.

Interested persons are invited to participate in these hearings. Those wishing to make an oral statement should register by Friday, October 13, 1989. Oral statements by individuals without prior registration will be allowed only if time permits. The Coast Guard reserves the right to impose time limits on oral presentations. To register, write or call the Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 84-069), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001; telephone number (202) 267-1477.

Dated: September 5, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-23628 Filed 10-4-89; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket Nos. 89-116, 89-117, 89-118]

FCC Procedure for Measurement of Intentional Radiators, Measuring RF Emissions From Intentional Radiators and Measurement of Unintentional Radiators

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, extension of time.

SUMMARY: The Chief Engineer, in response to a request for an extension, granted additional time in which to file comments in the proceeding to revise the FCC procedure for testing intentional radiators (TP-3), unintentional radiators (TP-4) and radio control and security devices and their associated receivers (TP-6). The additional time will give interested parties the necessary time to file meaningful comments.

DATES: Comments are due on or before October 9, 1989 and reply comments are due on or before November 13, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Richard Fabina, FCC Laboratory, (301)-725-1585.

SUPPLEMENTARY INFORMATION:

In the Matter of:

FCC Procedure for Management of Intentional Radiators (Except for Periodic and Spread Spectrum Devices and Devices Operating below 30 MHz)

FCC Procedure For Measuring RF Emissions from Intentional Radiators with Periodic Operation and Associated Superregenerative Receivers

FCC Procedure for Measurement of Unintentional Radiators (Except Digital Devices and Devices Operating below 30 MHz)

Order Extending Time To File Comments

Gen Docket Nos. 89-116, 89-117 and 89-118

Adopted: September 22, 1989.

Released: September 25, 1989.

By the Chief Engineer:

1. Notices of Proposed Rule Making in the above entitled proceedings (54 FR 28690, July 7, 1989); FCC 89-154, FCC 89-155 and FCC 89-156, respectively, were adopted by the Commission on May 12, 1989, and released on June 29, 1989. Comments and reply comments in these proceedings originally due on August 21, 1989, and September 5, 1989, respectively, were extended by Commission Order to September 25, 1989 and October 30, 1989, respectively.

2. On September 18, 1989 American Telephone and Telegraph Company (AT&T) filed with the Commission a petition requesting a further extension of the time for filing comments in these proceedings from September 25, 1989 to October 9, 1989 and the time for filing reply comments from October 30, 1989 to December 11, 1989. The petitioner states that although the test procedures proposed in these proceedings are somewhat similar to TP-5, which was the subject of an earlier proceeding, there are differences not only between TP-5 and the proposed test procedures but also between the proposed test procedures themselves. They express the opinion that more time is needed to sort out these differences and to prepare responses to the expected voluminous reply comments.

3. The Commission recognizes the complexity and interrelated nature of these proceedings, and values the contributions of the petitioner and others in the development of the subject test procedures. Because of our desire to have a fully developed record before us, it has been determined that an extension of the comment and reply comment dates in each of these proceedings is warranted. However, due to our desire to resolve these proceedings as soon as possible and because a previous extension has already been granted, we feel that extending the reply comment period as requested will unnecessarily prolong these proceedings. We believe that the concerns of all interested parties can still be resolved by extending the reply comment period to November 13, 1989 instead of the requested December 11, 1989.

4. Accordingly, it is ordered, pursuant to the delegated authority contained in 47 CFR 0.241(a)(5) that the period of time for the filing of comments in the above proceedings is extended until October 9, 1989, and the time for the filing of reply comments is extended until November 13, 1989.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 89-23432 Filed 10-4-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-423, RM-6878]

Radio Broadcasting Services; Riviera Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lappin Communications-Florida, Inc. requesting the substitution of Channel 232C3 for Channel 232A at Riviera Beach, Florida, and modification of its license for Station WMXQ(FM) to specify the higher powered channel. Channel 232C3 can be allotted to Riviera Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.4 kilometers (8.3 miles) north. The coordinates for this allotment are North Latitude 26–54–21 and West Longitude 80–03–42. In accordance with section 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest in the higher powered channel at Riviera Beach or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Allan G. Moskowitz, Kaye, Scholer, Fierman, Hays & Handler, 901 15th Street, NW., Washington, DC 20005, (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–423, adopted September 13, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–23574 Filed 10–4–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–422, RM–6867]

Radio Broadcasting Services; Mary Esther, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Holladay Broadcasting Company, Inc. requesting the substitution of Channel 288C3 for Channel 288A at Mary Esther, Florida, and modification of its license for Station WYZB(FM) to specify the higher powered channel. Channel 288C3 can be allotted to Mary Esther in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.8 kilometers (12.3 miles) east. The coordinates for this allotment are North Latitude 30–23–30 and West Longitude 86–27–30. In accordance with Section 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Bruce A. Eisen, Kaye, Scholer, Fierman, Hays & Handler, 901 15th Street, NW., Suite 1100, Washington, DC 20005.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–422, adopted September 13, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–23573 Filed 10–4–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–424; RM–6868]

Radio Broadcasting Services; Holmes Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by 98.7 Partnership seeking the substitution of Channel 254C3 for Channel 254A at Holmes Beach, Florida, and modification of its construction permit (BPH–861208MW) to specify the higher class channel. Channel 254C3 can be allotted to Holmes Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.3 kilometers (10.1 miles) north. The coordinates for this allotment are North Latitude 27–39–39 and West Longitude 82–42–34. In accordance with

§ 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest nor require the petitioner demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Charles R. Naftalin, Koteen & Naftalin, 1150 Connecticut Avenue, NW. Washington, DC 20036 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–424, adopted September 13, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–23575 Filed 10–4–89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89–425, RM–6829]

Radio Broadcasting Services; Rome, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Briar Creek Broadcasting Corp. seeking the substitution of Channel 249C3 for Channel 249A at Rome, Georgia, and modification of its license for Station WKCX(FM) to specify the higher powered channel. Channel 249C3 can be allotted to Rome in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.5 kilometers (8.4 miles) northeast. The coordinates for this allotment are North Latitude 34–20–00 and West Longitude 85–03–00. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of the higher powered channel at Rome or require the petitioner to demonstrate the availability of an additional equivalent channel for use by such interested parties.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Briar Creek Broadcasting Corp., P.O. Box 1546, Rome, Georgia 30161.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–425, adopted September 12, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–23576 Filed 10–4–89; 8:45am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89–426, RM–6776]

Radio Broadcasting Services; Sylvania, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Sam/Mac Broadcasting System, Inc., which proposes to allot Channel 293A to Sylvania, Georgia, as that community's first local FM service. The coordinates for the proposal are North Latitude 32–44–54 and West Longitude 81–37–36.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Shula Mahaffer, President, Sam/Mac Broadcasting System, Inc., P. O. Box 519, Sylvania, Georgia 30467.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–426, adopted September 12, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's

copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. I11Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Karl A. Kensinger,

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

[FR Doc. 89–23577 Filed 10–4–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–420, RM–6845]

Radio Broadcasting Services; Brockport, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by John Rosenkrans seeking the allotment of Channel 288A to Brockport, New York, as the community's first local commercial FM service. Channel 288A can be allotted to Brockport in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 43–12–48 and West Longitude 77–56–24. Canadian concurrence will be sought since Brockport is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ann Thomas Paxson, Esq., Bechtel, Borsari, Cole & Paxson, 2101 L Street, NW., Suite 502, Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89–420, adopted September 11, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to the proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–23571 Filed 10–4–89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–421, RM–6853]

Radio Broadcasting Services; Idalou, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Express Communications proposing the allotment of Channel 289A to Idalou, Texas, as that community's first local FM service. Channel 251A can be allotted to Idalou in compliance with the Commission's minimum separation requirements at the city reference coordinates, which are 33–39–48 and 101–40–42.

DATES: Comments must be filed on or before November 20, 1989, and reply comments on or before December 5, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: David Honig, Esquire, 1800 N.W. 187th Street, Miami, Florida 33056 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 89–421, adopted September 11, 1989, and released September 29, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

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

[FR Doc. 89–23572 Filed 10–4–89; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 54, No. 192
Thursday, October 5, 1989

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Temporary Emergency Food Assistance Program Availability of Surplus Commodities for Fiscal Year 1990

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: Subject to available appropriations, this notice announces: (1) The commodities that will be available for donation under the Temporary Emergency Food Assistance Program as authorized by the Temporary Emergency Food Assistance Act of 1983; and (2) the additional commodites that will be available as authorized by Section 110 of the Hunger Prevention Act of 1988 for donation to soup kitchens and food banks. The commodities made available under this notice shall be directed to needy persons, including unemployed and low-income persons.

FOR FURTHER INFORMATION CONTACT: Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Park Office Center, Alexandria, Virginia 22302 or telephone (703) 756–3660.

EFFECTIVE DATE: October 1, 1989.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Availability of Commodities

Donations of commodities to needy households were initiated in 1981 as part of efforts to reduce stockpiles of government-owned commodities. These donations responded to concern over the costs to taxpayers of storing vast quantities of food, while at the same time there were persons in need of food assistance. The Temporary Emergency Food Assistance Act Program was codified in Title II of Public Law 98–8, the Temporary Emergency Food Assistance Act (TEFAA) of 1983 (7 U.S.C. 612c note). Foods made available for distribution under TEFAA were limited to amounts determined by the Secretary to be in excess of the quantities needed to carry out other programs, including Commodity Credit Corporation (CCC) sales obligations and domestic and foreign food assistance programs.

Since 1983, the supply of available commodities has been drastically reduced. These reductions are the result of changes in the agricultural price-support programs which have brought supply and demand into better balance, and accelerated donations and sales.

The Secretary of Agriculture anticipates that the following commodities acquired by the CCC under its price-support activities will be made available in the noted amounts for distribution through the Temporary Emergency Food Assistance Program during Fiscal Year 1990: Butter, 72 million pounds; flour, 144 million pounds; and cornmeal, 48 million pounds. The Department anticipates that 12 million pounds of honey will be available through December 1989.

The actual type and quantities of commodities made available by the Department may differ from the above estimates because of agricultural production, market conditions and the distribution of these donated foods to other domestic outlets.

Sections 213 and 214 of the TEFAA, as added by section 104 of the Hunger Prevention Act of 1988 (Pub. L. 100–435), require the Secretary to spend $120 million during Fiscal Year 1990 to purchase, process, and distribute commodities for household consumption in addition to those otherwise provided under the Temporary Emergency Food Assistance Program. Further, section 110 of the Hunger Prevention Act requires the Secretary to spend an additional $40 million during Fiscal Year 1990 to purchase, process and distribute commodities for soup kitchens and food banks.

The Secretary anticipates that the following additional commodities will be purchased for distribution to households through the Temporary Emergency Food Assistance Program during Fiscal Year 1990: Peanut butter, raisins, canned vegetarian beans, canned green beans, and canned pork. The Secretary also anticipates that the following commodities will be purchased in institutional size packages for distribution to soup kitchens and food banks: canned freestone peaches, canned applesauce, canned sweetpotatoes, canned whole corn, dry beans, canned pork, and peanut butter. The amounts to be purchased are subject to the availability of appropriations and will depend on the prices USDA must pay.

Dated: September 28, 1989.

G. Scott Dunn,

Acting Administrator.

[FR Doc. 89–23464 Filed 10–4–89; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

Virgil Creek Watershed, NY; Availability of Record of Decision

AGENCY: Soil Conservation Service.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Paul A. Dodd, responsible federal official for projects administered under the provisions of Public Law 93–566, 16 U.S.C. 1001–1008, in the state of New York, is hereby providing notification that a Record of Decision to proceed with the installation of the Virgil Creek Watershed project is available. Single copies of this Record of Decision may be obtained from Paul A. Dodd at the address shown below.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, Room 771, Syracuse, New York 13260, telephone 315/423–5521.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: September 26, 1989.

Paul A. Dodd,

State Conservationist.

[FR Doc. 89–23454 Filed 10–4–89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee; Public Meeting in the Matter of Census Advisory Committee (CAC) on the American Indian and Alaska Native Populations for the 1990 Census, the CAC on the Asian and Pacific Islander Populations for the 1990 Census, the CAC on the Black Population for the 1990 Census, and the CAC on the Hispanic Population for the 1990 Census

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a joint meeting followed by separate and jointly held meetings (described below) of the CAC on the American Indian and Alaska Native Populations for the 1990 Census, the CAC on the Asian and Pacific Islander Populations for the 1990 Census, the CAC on the Black Population for the 1990 Census, and the CAC on the Hispanic Population for the 1990 Census. The joint meeting will convene on October 26–27, 1989 at the Old Colony Inn, 625 First Street, Alexandira, Virginia 22313.

Each of these Committees is composed of 12 members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on the problems and opportunities of the 1990 decennial census.

The Committees will draw on the knowledge and insight of their members to provide advice during the planning of the 1990 Census of Population and Housing on such elements as improving the accuracy of the population count, suggesting areas of research, recommending subject content and tabulations of particular use to the populations they represent, expanding the dissemination of census results among present and potential users of census data in their communities, and generally improving the usefulness of the census product.

The agenda for the October 26 combined meeting that will begin at 8:45 a.m. and end at 11:45 p.m. is: 1) Introductory remarks by the Deputy Director, Bureau of the Census; 2) 1990 decennial update; 3) settlement of *City of New York, et al* v. *U.S. Department of Commerce, et al;* 4) 1900 decennial promotion update; 5) use of the "White, not Hispanic," Population as the comparison group for reports on racial and ethnic origin population; and 6) census evaluation programs.

The agendas for the four committees in their separate meetings that will begin at 1 p.m. and end at 4:30 p.m. on October 26 are as follows;

The CAC on the American Indian and Alaska Native Populations for the 1990 Census: 1) Review of Census Bureau responses to Committee recommendations; 2) election of chair-elect; 3) census promotion update; 4) behavioral research projects update; and 5) tabulation-publication system.

The CAC on the Asian and Pacific Islander Populations for the 1990 Census: 1) Review of Census Bureau responses to Committee recommendations; 2) election of chair-elect; 3) tabulation-publication system; and 4) census promotion update.

The CAC on the Black Population for the 1990 Census; 1) Review of Census Bureau responses to Committee recommendations; 2) election of chair-elect; 3) initiative with the Great City Schools; 4) tabulation-publication system; and 5) census promotion update.

The CAC on the Hispanic Population for the 1990 Census; 1) Review of Census Bureau responses to Committee recommendations; 2) election of chair-elect; 3) census promotion update; 4) tabulation-publication system; and 5) report on the meetings with the Secretariat for Hispanic Affairs, Census Bureau partnership.

The agenda for the October 27 combined meeting that will begin at 8:45 a.m. and end at 12:15 p.m. is: 1) Future plans and feedback from the four committees on their outreach and promotion activities; and 2) open dialogue discussion between committee members and Census Bureau staff.

All meetings are open to the public and a brief period is set aside on October 27 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

Persons wishing additional information regarding these meetings or who wish to submit written statements may contact Ms. Diana Harley, Decennial Planning Division, Bureau of the Census, Room 3541, Federal Building 3, Suitland, Maryland, (Mailing address: Washington, DC 20233) Telephone: (301) 763–4275.

Dated: September 29, 1989.

Bryant Benton,

Associate Director for Management Services, Bureau of the Census.

[FR Doc. 89–23592 Filed 10–4–89; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

A meeting of the Semiconductor Technical Advisory Committee will be held October 25, 1989, 9:00 a.m., Herbert C. Hoover Building, Room 1617–F, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to semiconductors and related equipment or technology.

Agenda

General Session

1. Presentation on Defense RAD-Hard Policy.
2. Overview of TAC efforts on Segment A, List Review.
3. Comments from attendees.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: Ms. Ruth D. Fitts, U.S. Department of Commerce/BXA, Office of Technology & Policy Analysis, 14th & Constitution Avenue, NW., Room 4069A, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10,1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202-377-4969.

Dated: September 29, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology & Policy Analysis.

[FR Doc. 23477 Filed 10-4-89; 8:45 am]

BILLING CODE 3510-DT-M

National Institute of Standards and Technology

[Docket No. 90889-9189]

Precision Measurement Grants

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Announcing Continuation of the NIST Precision Measurement Grants Program.

Catalog of Federal Domestic Assistance Name and Number: Measurement and Engineering Research and Services; 11.609.

SUMMARY: The purpose of this notice is to inform potential applicants that the National Institute of Standards and Technology (NIST) is continuing a $180,000 per year program of research grants, formally titled Precision Measurement Grants, to scientists in U.S. academic institutions for significant, primarily experimental research, in the field of precision measurement and fundamental constants. Applications are now being accepted for two new NIST Precision Measurement Grants to be awarded beginning October 1, 1990 (fiscal year 1991). Each grant is in the amount of $30,000 per year, renewable at NIST's option for up to two additional years, for a total of $90,000.

CLOSING DATE FOR APPLICATIONS: February 1, 1990, is the deadline for applying for the FY 91 awards.

FOR FURTHER INFORMATION CONTACT: Dr. Barry N. Taylor, Chairman, NIST Precision Measurement Grants Committee, Bldg. 221, Rm B160, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975-4220.

SUPPLEMENTARY INFORMATION: As authorized by section 2 of the Act of March 3, 1901 as amended (15 U.S.C. 272), the National Institute of Standards and Technology (NIST) conducts directly, and through grants and contracts, a basic and applied research program in the general area of precision measurement and the determination of fundamental constants of nature. As part of this research program, NIST has since 1970 awarded Precision Measurement Grants to scientists in U.S. academic institutions for significant, primarily experimental research in the field of precision measurement and fundamental constants..

NIST is now accepting applications for two new $30,000 grants to be awarded for the period October 1, 1990, through September 30, 1991 (fiscal year 1991). At NIST's option, each grant may be renewed for up to two additional years for a total of $90,000

NIST sponsors these grants to encourage basic, measurement-related research in U.S. colleges and universities and to foster contacts between NIST scientists and those researchers in the U.S. academic community who are actively engaged in such work. The Precision Measurement Grants are also intended to make it possible for workers in U.S. academic institutions to pursue new measurement ideas for which other sources of support may be difficult to find. The Precision Measurement Grants Program does not involve the payment of any matching funds from a state or local government and does not directly affect any state or local government. Accordingly, NIST has determined that Executive Order 12372 is not applicable to the Precision Measurement Grants Program. This notice does not contain policies with federalism with implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Research Topics/Who May Apply

There is considerable latitude in the kind of research projects which will be considered for support under the Precision Measurement Grants Program. The key requirement is that they generally support NIST work in the field of basic measurement science, for example:

Experimental and theoretical studies of fundamental physical phenomena to test the basic laws of physics or which may lead to improved or new fundamental measurement methods and standards.

The determination of important fundamental physical constants.

The development of new standards for physical measurement of the highest possible precision and accuracy.

In general, proposals for experimental research will be given preference over proposals for theoretical research because of the greater expense of experimental work. Proposals from workers at the assistant and associate professor level who have some record of accomplishment are especially encouraged in view of the comparative difficulty aspiring researchers have in obtaining funds.

Typical projects which have been funded through the NIST Precision Measurement Grants Program include:

"Measurement of fundamental constants using three-level resonances in hydrogen," Carl E. Wieman, University of Michigan.

"Quantum limited measurement of a harmonic oscillator," William C. Oelfke, University of Central Florida.

"Fine-Structure constant determination using precision Stark spectroscopy," Michael G. Littman, Princeton University.

"Eätvös experiment-cryogenic version," D. F. Bartlett, University of Colorado.

"A test of local Lorentz invariance using polarized ^{21}Ne nuclei," T. E. Chupp, Harvard University.

"A new method to search for an electric dipole moment of the electron," L. R. Hunter, Amherst College.

"High precision timing of milisecond pulsars," D. R. Stinebring, Princeton University.

Procedures

To simplify the proposal writing and evaluation process, the following selection procedure will be used:

Candidates are requested to submit a preapplication proposal to NIST by February 1, 1990 using standard form 424 with a description of their proposed work of no more than five double spaced pages.

Three copies should be sent to Dr. Barry N. Taylor at the address shown above.

On the basis of this material, four to eight semi-finalist candidates will be selected by the NIST Precision Measurement Grants Committee and the Outside Advisory Committee to submit more detailed proposals. The same committees will evaluate the detailed proposals, and on the basis of their evaluation, the two grantees for fiscal year 1990 will be selected. The semi-finalists will be notified of their status by March 20, 1990, and will be requested to submit their full proposals to NIST by May 5, 1990. The successful grantees will be notified of their selection by August 15, 1990.

The criteria to be used in evaluating the preapplication proposals and full proposals include:

1. Importance of the proposed research to science—does it have the potential of answering some currently

pressing question or of opening up a whole new area of activity?

2. The relationship of the proposed research to measurement science—is there a possibility that it will lead to a new or improved basic measurement unit, physical standard, or measurement method? (Or to a better understanding of important, but already existing, measurement units, physical standards, or measurement methods?)

3. The feasibility of the research—is it likely that significant progress can be made in a three year time period with the funds and personnel available?

4. The past accomplishments of the applicant—is the quality of the research previously carried out by the prospective grantee such that there is a high probability that the proposed research will be successfully carried out?

Each of these factors are given equal weight in the selection process.

Technical Questions concerning the NIST Precision Measurement Grants Program may be directed to the above address or call Dr. Taylor on (301) 975-4220.

Paperwork Reduction Act

The standard form 424 referenced in this notice is subject to the Paperwork Reduction Act and has been cleared under Office of Management and Budget (OMB) control number 0348-0006.

Additional Requirements

All applicants must submit a certificate ensuring that employees of the applicant are prohibited from engaging in the unlawful manufacturing, distribution, dispensing, possession or use of a controlled substance at the work site, as required by the regulations implementing the Drug-Free Workplace Act of 1988, 15 CFR part 26, subpart F.

Applicants are subject to the Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment. Any recipients/applicants who have an outstanding indebtedness to the Department of Commerce will not receive a new award until the debt is paid or arrangements satisfactory to the Department are made to pay debt.

Administrative Information

Contact: Grants Office, Office of Acquisition and Assistance Division, Building 301/Rm. B143, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975-6328.

Dated: September 29, 1989.

Raymond G. Kammer,

Acting Director.

[FR Doc. 89-23589 Filed 10-4-89; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Application for Endangered Species Permit; Gulf Specimen Marine Laboratories, Inc. (P456)

Notice is hereby given that the Applicant has applied to due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR part 217-222).

1. *Applicant:* Dr. Ann Rudloe, Gulf Specimen Marine Laboratories, Inc., P.O. Box 237, Panacea, Florida 32346.

2. *Type of Permit:* Scientific Purposes.

3. *Name and Number of Species:* Kemp's Ridley sea turtles (*Lepidochelys kempi*), 60.

4. *Type of Take:* The applicant proposes to conduct scientific studies on Kemp's Ridley to provide fishery independent data on the occurrence, seasonality and population structure of Kemp's ridleys in the shallow, inshore waters of the northeastern Gulf of Mexico. The study will develop population data necessary to write a management plan for this species and will allow development of sampling procedures adequate for later efforts to calculate a population estimate for this species.

5. *Location and Duration of Activity:* The collecting efforts will be adjacent to Piney Island and Shell Point Reef, Wakulla County, Florida; Alligator Point and off the Carrabelle River, Franklin County, Florida. The activities are estimated to expand three field seasons beginning Oct/Nov 1989 to Sep/Oct 1992 covering four calendar years.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

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

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Dated: September 27, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 89-23515 Filed 10-4-89; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Marine Mammals Permit; Golden Nugget-Strip Corp. (P451)

On June 12, 1989, notice was published in the **Federal Register** (54 FR 24934) that an application had been filed by Golden Nugget-Strip Corporation, operating as The Mirage, Las Vegas, Nevada 89125, to obtain and maintain up to six (6) captive, captive born, or rehabilitated beached/ stranded bottlenose dolphins (*Tursiops truncatus*) for public display. This notice stated that, if bottlenosed dolphins (*Tursiops truncatus*) are not available, alternative captive, captive born, or rehabilitated beached/stranded species will be considered for relocation, with the exception of killer whales (*Orcinus orca*); and that no take from the wild is requested or anticipated. On August 1, 1989, notice was published in the **Federal Register** (54 FR 31722) that a hearing would be held on this application on August 15, 1989. The hearing record was left open for ten working days after the date of the hearing.

Notice is hereby given that on September 28, 1989 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this permit is based on a finding that the proposed taking is consistent with the purposes and policies of the Marine Mammal Protection Act. The Service has determined that the Golden Nugget-Strip Corporation, operating as The Mirage,

will offer an acceptable program for education or conservation purposes. The Mirage facilities will be open to the public on a regularly scheduled basis and access to the facilities will not be limited or restricted other than by the charging of an admission fee. The decision by National Marine Fisheries Service to issue this Permit was based on available information, present regulations, and existing policy. A more detailed discussion of the basis for this decision is available upon request.

The Permit is available for review by interested persons in the following Offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD

Director, Southwest Region, National Marine Fisheries Service, 301 South Ferry Str., Terminal Island, California 90731.

Dated: September 28, 1989.

Nancy Foster,

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

[FR Doc. 89-23632 Filed 10-4-89; 8:45 am]

BILLING CODE 3510-22-M

Membership of the National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administratrion (NOAA), Department of Commerce.

ACTION: Notice of Additional Membership to NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4), NOAA announces the appointment of persons to serve as members of NOAA Performance Review Boards (PRB). The NOAA PRB's are responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and amounts, and initial recommendations for potential rank awards. The appointment of these additional members to the NOAA PRB's will be for periods of 24 months service beginning October 2, 1989.

DATE: The effective date of service of these additional appointees to the NOAA Performance Review Board is October 2, 1989.

FOR FURTHER INFORMATION CONTACT: John Innocenti, Chief Personnel Division, Office of Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8811.

SUPPLEMENTARY INFORMATION: The names and titles of the additional members of the NOAA PRB's are all NOAA officials and are set forth below.

Gray C. Castle, Deputy Under Secretary for Oceans and Atmosphere

Virginia K. Tippie, Assistant Administrator for Ocean Services and Coastal Zone Management

Thomas J. Maginnis, Director for Policy and Planning

Dated: September 26, 1989.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 89-23616 Filed 10-4-89; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the inventions embodied in U.S. Patent Application Serial Numbers 6-802,680 (U.S. Patent 4,692,463), "AntiInflammatory 2, 3-Didemethylcolchicine and Additional Derivatives"; U.S. Serial Numbers 6-601,314 (U.S. Patent 4,533,675), "Carbamates of Colchicine and Thiocolchicine Suitable for Treatment of Gout"; U.S. Serial Numbers 7-235,907, "Esters of 3-Demethylthiocolchicine and N-Acyl Analogs" to Advanced Biofactures Corporation having a place of business at 30 Wilbur Street, Lynbrook, NY 11583. The patent rights in these inventions will be assigned to the United States of America as represented by the Department of Commerce.

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

A copy of the patent application may be purchased from the NTIS Sales Desk by telephoning (703) 487-4650 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

A copy of the issued U.S. Patent may be obtained from the Commissioner, U.S. Patent and Trademark Office, Box 9, Washington, DC 20231.

Inquiries, comments, and other materials relating to the contemplated license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

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

[FR Doc. 89-23563 Filed 10-4-89; 8:45 am]

BILLING CODE 3510-04-M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' next scheduled meeting is Thursday, 19 October 1989 at 10:00 a.m. at the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meeting.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, September 28, 1989.

Charles H. Atherton,

Secretary.

[FR Doc. 89-23457 Filed 10-4-89; 8:45 am]

BILLING CODE 6330-01-M

COMMODITY FUTURES TRADING COMMISSION

Performance of Functions Related to Leverage Transactions by National Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and Order authorizing the National Futures Association ("FNA") to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any leverage transaction merchant ("LTM") or associated person ("AP") of an LTM, or an applicant for registration in either

category, to process requests for withdrawal from registration by LTMs, to enforce its rules regarding minimum financial, cover, segregation and sales practice requirements, and related reporting requirements for its member LTMs and their APs, and to conduct arbitration proceedings to settle leverage customer claims or grievances.

SUMMARY: The Commission is authorizing NFA to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any leverage transaction merchant ("LTM") or associated person ("AP") of an LTM, or an applicant for registration in either category, to process requests for withdrawal from registration by LTMs, to enforce its rules regarding minimum financial, cover, segregation and sales practice requirements, and related reporting requirements for its member LTMs and their APs, and to conduct arbitration proceedings to settle leverage customer claims or grievances. This Order, together with the rule amendments and the few new rules related to leverage transactions published elsewhere in the "Rules and Regulations" Section of this issue, provide a regulatory structure for leverage transactions of direct supervision by a registered futures association under Commission oversight. Such a structure is consistent with the other regulatory programs administered by the Commission.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel or Robert P. Shiner, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–8955 or 254–6112, respectively.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

UNITED STATES OF AMERICA

Before the Commodity Futures Trading Commission

Order Authorizing the Performance of Functions Related to Leverage Transactions

I. Authority and Background

By letter dated August 9, 1989, NFA requested Commission authority to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any LTM or AP of an LTM, or an applicant for registration in either category, to process requests for withdrawal from registration by LTMs, to enforce its rules regarding minimum financial, cover, segregation and sales practice requirements, and related reporting requirements for its member LTMs and their APs, and to conduct arbitration proceedings to settle leverage customer claims or grievances. NFA submitted for Commission approval amendments to its rules to govern its new responsibilities with respect to leverage transactions.

Section 19(c)(2) of the Commodity Exchange Act ("Act") provides that the Commission may authorize or require, notwithstanding any other provision of law, a registered futures association to perform such responsibilities in connection with leverage transactions as the Commission may specify.[1] The Commission has adopted a new Rule 31.27 that requires each person registered or required to register as an LTM to become and remain a member of a registered futures association. The Commission has also adopted a new Rule 31.28 that requires a registered futures association with member LTMs to adopt and enforce rules to govern the activities of such firms with respect to leverage transactions.

The Commission has previously authorized NFA to process and, where appropriate, grant applications for registration in the categories of LTM and AP of an LTM and to be official custodian of certain registration records of LTMs and APs of LTMs.[2] Upon consideration, the Commission has determined to authorize NFA, effective January 1, 1990, to perform such additional registration and other functions requested in its August 9, 1989 letter in accordance with the standards estabished by the Act and the regulations promulgated thereunder. Such standards are set forth in sections 8a(2)–(4) of the Act (7 U.S.C. 12a(2)–(4) (1982)) and 17 CFR part 3, subpart C promulgated thereunder (adverse registration actions); Rule 3.33 (withdrawal of registration); Rules 31.7, 31.8, 31.9, 31.12 and 31.13 (minimum financial, cover, segregation and related reporting requirements); the sales practice and related reporting requirements, Rules 31.3 (general antifraud); 31.10 (repurchase and resale of leverage contracts by LTMs); 31.11 (disclosure and confirmation statements); 31.14 (recordkeeping); 31.15 (purchase-and-sale and monthly statements to leverage customers); 31.16 (monthly reports of volume and prices); 31.17 (records of leverage transactions); 31.18 (margin calls); 31.19 (unlawful representations); 31.20 (prohibitions of guarantees against loss); 31.23 (limited right to rescind first leverage contract); 31.25 (bid and ask prices and carrying charges); and 31.26 (quarterly reports of closed-out contracts); and 17 CFR Part 180 (arbitration proceedings).[3]

In authorizing NFA to undertake these registration and other functions, the Commission is retaining for the time being certain of the responsibilities pertaining to leverage transactions. Specifically, the Commission has not authorized NFA to act upon requests for exemption from registration or to render "no-action" opinions with respect to applicable LTM or AP of an LTM registration requirements. The Commission also has not authorized NFA to process leverage commodity registration applications.

The Commission wishes to note certain other items. With respect to adverse actions or requests for withdrawal pending at the time NFA is authorized to assume the above-mentioned registration functions, the Commission will retain the responsibility to complete such matters. Second, NFA shall follow the same procedures with respect to recordkeeping, disclosure and tracking of fitness investigations and adverse action proceedings concerning LTMs and APs of LTMs as it must follow in cases involving FCMs, IBs, CPOs, CTAs, and their respective APs.[4] Third, NFA has, as previously indicated, instituted a testing requirement for APs of LTMs that is comparable to that for APs of FCMs that will become effective following the lifting of the leverage moratoria.[5] Further, the Commission directs NFA to provide the Commission with summaries of the monthly and quarterly reports that NFA will receive under Rules 31.16 and 31.26 commencing in 1990.

II. Conclusion and Order

The Commission has determined, in accordance with the provisions of

[1] Futures Trading Act of 1986, Pub. L. No. 99-641, § 109, 100 Stat. 3556 (1986). *See also* Section 8a(10) of the Act, 7 U.S.C. 12a(10) (1982).

[2] 54 FR 19594 (May 8, 1989). That grant of registration authority to NFA also included the authority to grant temporary licenses to APs of LTMs, where appropriate. The Commission has previously authorized NFA to perform registration functions with respect to futures commission merchants ("FCMs"), introducing brokers ("IBs"), commodity pool operators ("CPOs"), commodity trading advisors ("CTAs") and APs of such entities, as well as floor brokers. *See* 48 FR 15940 (April 13, 1983); 48 FR 35158 (August 3, 1983); 48 FR 51809 (November 14, 1983); 49 FR 8226 (March 5, 1984); 49 FR 39593 (October 9, 1984); 50 FR 34885 (August 28, 1985); 51 FR 25929 (July 17, 1986) and 51 FR 34490 (September 29, 1986).

[3] The Commission has separately approved NFA's rules for its member LTMs in light of these standards.

[4] 50 FR 34885, 34887.

[5] 54 FR 19594, 19595: *See also* 7 U.S.C. 21(p)(1) (1982).

section 19 of the Act, to authorize NFA, effective January 1, 1990, to conduct proceedings to deny, condition, suspend, restrict or revoke the registration of any LTM or AP of an LTM, or an applicant for registration in either category, to process requests for withdrawal from registration by LTMs, to enforce its rules regarding minimum financial, cover, segregation and sales practice requirements, and related reporting requirements for its member LTMs and their APs, and to conduct arbitration proceedings to settle leverage customer claims or grievances in accordance with the standards established by the Act and the regulations promulgated thereunder. The Commission also directs NFA to provide the Commission with summaries of the monthly and quarterly reports that NFA will recieve under Rules 31.16 and 31.26 commencing in 1990. These Commission determinations are based upon the Congressional intent that the Commission be allowed to authorize NFA to perform any portion of the Commission's responsbilities with respect to leverage transactions under the Act for purposes of carrying out these responsibilities in the most efficient and cost-effective manner, and NFA's representations concerning standards and procedures to be followed in administering these functions.

This Order does not, however, authorize NFA to accept or act upon requests for exemption or render "no-action" opinions or interpretations with respect to applicable LTM or AP of an LTM registration requirements, or to accept or act upon leverage commodity registration applications.

Nothing in this Order or section 19 of the Act shall affect the Commission's authority to review the granting of a registration application by NFA, or the taking of adverse action with respect to an applicant or registrant by NFA, in the performance of Commission registration functions. *See also* section 17(o)(3) of the Act, 7 U.S.C. 21(o)(3) (1982).

Issued in Washington, DC on September 29, 1989, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89-23453 Filed 10-4-89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Personal Information Questionnaire; NAVMC 10064; and OMB Control Number 0703-0012.

Type of Request: Extension.

Average Burden Hours/Minutes per Response: 30 Minutes.

Frequency of Response: On occasion.

Number of Respondents: 16,700.

Annual Burden Hours: 8,350.

Annual Responses: 16,700.

Needs and Uses: The Personal Information Questionnaire is used as a standardized method in rating officer program applicants in the areas of character, leadership, ability, and suitability for service as a commissioned officer.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. Timothy Sprehe.

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

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: September 29, 1989.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-23478 Filed 10-4-89; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Intelligence Agency Advisory Board; Meeting

AGENCY: Defense Intelligence Agency Advisory Board, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATE: Thursday, 26 October 1989 (8:30 a.m. to 4:00 p.m.).

ADDRESS: 3100 Clarendon Blvd., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Advisory Board, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on HUMINT/Scientific and Technical Intelligence Interface.

Dated: September 29, 1989.

P. H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-23479 Filed 10-4-89; 8:45 am]

BILLING CODE 3610-01-M

Defense Manufacturing Board; Meeting

AGENCY: Under Secretary of Defense (Acquisition), DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Office of the Under Secretary of Defense for Acquisition announces the next meeting of the Defense Manufacturing Board.

DATE AND TIME: 17-18 Oct. 89, 0830-1700.

ADDRESS: The Pentagon, Room 3E869, Washington, DC.

The agenda for the meeting will include a review of the current projects being pursued by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Fitzpatrick of the DMB Secretariat at (202) 697-0957.

Dated: September 29, 1989.

P. H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-23480 Filed 10-4-89; 8:45 am]

BILLING CODE 3610-01-M

Department of the Navy

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory

Committee on Superconductivity will meet October 23, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to discuss the development and application of both cryogenic and high temperature superconductivity to naval systems and related intelligence, particularly that related to integrated ship power and combat systems. The entire agenda of the meeting will consist of discussions of key issues regarding research requirements and risks, the ability of the industrial base, both here and abroad, to support these requirements and field prototype systems, and related intelligence analyses. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: September 28, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-23469 Filed 10-4-89; 8:45 am]

BILLING CODE 3810-AE-M

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Space Task Force will meet October 24-25, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to assess the Navy's potential role in space. The entire agenda of the meeting will consist of discussions of key issues regarding space exploration in support of U.S. national security, and related intelligence. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: September 28, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-23470 Filed 10-4-89; 8:45 am]

BILLING CODE 3810-AE-M

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee on Superconductivity will meet October 30, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to discuss the development and application of both cryogenic and high temperature superconductivity to naval systems and related intelligence, particularly that related to integrated ship power and combat systems. The entire agenda of the meeting will consist of discussions of key issues regarding research requirements and risks, the ability of the industrial base, both here and abroad, to support these requirements and field prototype systems, and related intelligence analyses. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact, Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1201.

Dated: September 28, 1989

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-23471 Filed 10-4-89; 8:45 am]

BILLING CODE 3810-AE-M

CNO Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Space Task Force will meet November 21-22, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to assess the Navy's potential role in space. The entire agenda of the meeting will consist of disucssions of key issues regarding space exploration in support of U.S. national security, and related intelligence. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: September 28, 1989.

Sandra M. Kay

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89-23472 Filed 10-4-89; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee will meet on October 26-27, 1989. The meeting will be held at the Naval Training Systems Center, Orlando, Florida. The meeting will commerce at 8:00 A.M. and terminate at 4:30 P.M. on October 27, 1989. All

sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings and demonstrations for the committee members on training devices and simulators. The agenda will include briefings, demonstrations and discussions related to human factors, advanced simulation, computer technology, research and engineering, front and analysis and program management. These briefings, discussions and demonstrations will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone Number: (202) 696-4870.

Dated: September 28, 1989.

Sandra M. Kay,

Department of the Navy Alternate Federal Register Liaison Officer.

[FR Doc. 89-23473 Filed 10-4-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, information collection, Extraordinary Contractual Action Requests. Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Roger Schwartz, Office of Federal Acquisition Policy, (202) 523-4746.

SUPPLEMENTARY INFORMATION:

Purpose

1. This request covers the collection of information as a first step under Public Law 85-804 as amended by Public Law 93-155 and Executive Order 10789 dated November 14, 1958, that allows contracts to be entered into, amended, or modified in order to facilitate National Defense. In order for a firm to be granted relief under the act specific evidence must be submitted which supports the firm's assertion that relief is appropriate and that the matter cannot be disposed of under the terms of the contracts.

b. Annual reporting burden

This is estimated as follows: Respondents, 100; responses, 100; Reporting and Recordkeeping hours, 1600.

Obtaining Copies of Proposals: Requester may obtain copies from the FAR Secretariat (VRS), Room 4041, GSA Building, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Control No. 9000-0029, Extraordinary Contractual Action Requests.

Dated: September 21, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89-23460 Filed 10-4-89; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF89-339-000, et al.]

Mecklenburg Cogeneration Limited Partnership, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

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

1. Mecklenburg Cogeneration Limited Partnership

[Docket No. QF89-339-000]

September 26, 1989.

On September 7, 1989, Mecklenburg Cogeneration Limited Partnership (Applicant), of 526 South Church Street, P.O. Box 36911, Charlotte, North Carolina 28238, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Mecklenburg County, near Clarksville, Virginia. The facility will consist of two pulverized coal fired boilers and two extraction/condensing steam turbine generators. Thermal energy recovered from the facility, in the form of extraction steam, will be used by Burlington Industries, Inc. in its existing worsted wool fabric and clothing manufacturing operations for fiber preparation, cloth cleaning and drying and for space heating and humidification. The primary energy source will be coal. The net electric power production capacity of facility will be 128.8 MW. Construction of the facility is expected to begin early in 1990.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

2. Mississippi Power Company

[Docket No. ER89-657-000]

September 27, 1989.

Take notice that on September 14, 1989, Mississippi Power Company (MPC) tendered for filing Revised Tariff Sheet No. 14 Supplement documents which identify two new services together with an updated Tariff Sheet 15 which updates the Index of the MPC wholesale distribution EPA customers of MPC.

Comment date: October 10, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Iowa Electric Light and Power Company

[Docket No. ES89-37-000]

September 27, 1989.

Take notice that on September 19, 1989, Iowa Electric Light and Power Company ("Applicant") file an application with the Federal Energy Regulatory Commission ("Commission"), pursuant to Section 204 of the Federal Power Act, seeking authority to issue not more than $75 million of short-term notes with a final maturity date of not later than December 31, 1993.

Comment date: October 18, 1989 in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER89-666-000]

September 27, 1989.

Take notice that on September 22, 1989, Arizona Public Service Company

(APS or Company) tendered for filing an Economy Energy Interchange Agreement (Agreement) between APS and M-S-R) executed on August 4, 1989.

APS requested that this Agreement become effective June 15, 1989 as agreed between the Parties.

This Agreement provides that Economy Energy sales by APS to M-S-R shall be priced at one of the following rates: (A) A bifurcated rate containing a ceiling adder based on the fixed costs associated with facilities likely to produce the required energy as well as the actual variable costs incurred to produce the required energy; (b) a "split-the-savings" concept; or (c) a selling price based on 120 percent of the costs to produce such energy.

Copies of this filing are being served upon M-S-R and the Arizona Corporation Commission.

Comment date: October 11, 1989, in accordance with Standard Paragraph E end of this notice.

5. PacificCorp, doing business as Pacific Power & Light and Utah Power & Light

[Docket No. ER89-660-000]

September 27, 1989.

Take notice that PacifiCorp, doing business as Pacific Power & Light and Utah Power & Light, on September 19, 1989, tendered for filing PacifiCorp's Revised Appendix 1 for the state of Oregon and Bonneville Power Administration's (Bonneville) Determination of Average system Cost (ASC) for the state Oregon (Bonneville's Docket No. 5-A1-8901). The Revised Appendix 1 calculates the ASC for the state of Oregon applicable to the exchange of power between Bonneville and PacifiCorp.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule to become effective January 24, 1989, which it claims is the date of commence of service.

Copies of the filing were supplied to Bonneville, the Public Utility Commission of Oregon and Bonneville's Direct Service Industrial Customers.

Comment date: October 10, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa Power and Light Company

[Docket No. ER89-667-000]

September 27, 1989.

Take notice that on September 19, 1989, Iowa Power and Light Company (Iowa Power) tendered for filing an Interchange Agreement between Iowa Power and the Indianola Waterworks and Electric Light and Power Board of Trustees (Board of Trustees) dated January 9, 1989.

Iowa Power states that the Interchange Agreement is a negotiated agreement specifying the respective rights and obligations of the parties; that it supercedes the 1973 Interchange Agreement; and that the Board of Trustees and the State Utilities Board have been mailed copies of the Agreement.

Iowa Power requests an effective date of February 1, 1989, and therefore requests a waiver of the Commission's notice requirements.

Comment date: October 11, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER89-561-000]

September 27, 1989.

Take notice that on Arizona Public Service Company (APS) tendered an amendment to its filing which provides that in consideration of the resolution of all disputes between Arizona Electric Power Cooperative, Inc. (AEPCO) and APS including the dismissal of a State lawsuit, the contract between the parties was agreed to be terminated early. This amendment is filed in response to the Deficiency Letter from the Commission dated August 25, 1989.

APS requests waiver of the Commissions' notice requirements in order that the originally proposed effective termination date of March 9, 1989 may be granted. Copies of the amended filing have been served on Arizona Electric Power Cooperative, Inc., Citizens Utilities Company, and the Arizona Corporation Commission.

Comment date: October 11, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER89-664-000]

September 27, 1989

Take notice that on September 20, 1989, Arizona Public Service Company ("APS" or "Company") tendered for filing a revised Exhibit B reducing the Maximum Demand under the Wholesale Power Agreement with the Town of Wickenburg (APS-FPC Rate Schedule No. 74).

No changes from the currently effective Wholesale Power rate level are proposed herein. No new facilities are required to provide this service.

A copy of this filing has been served on the Town of Wickenburg and the Arizona Corporation Commission.

Comment date: October 11, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. The Potomac Edision Company West Penn Power Company

[Docket No. ER89-665-000]

September 27, 1989.

Take notice that on September 20, 1989, The Potomac Edison Company (Potomac Edison) and West Penn Power Company (West Penn) filed changes in their Electric Service Agreements. Potomac Edison filed a change in its Agreement with the Town of Williamsport, Maryland (Town), which revised Appendix A to that Agreement to increase the number of connection points to two and increase the maximum capacities for firm and emergency Allegheny Electric Cooperative, Inc., (the Coop) to reduce the maximum capacity at an existing connection and to change the facilities charge at the connection, and a new Electric Service Agreements with Duquesne Light Company (Duquesne Light) and Pennsylvania Power and Light Company (PP&L) to add Duquesne Light and PP&L as customers on an existing West Penn rate schedule. Potomac Edison has requested that the revised Appendix A be deemed effective as of July 1, 1989; West Penn has requested that the Addendum to its Agreement with the Coop be deemed effective as of May 12, 1988, and that the new Electric Service Agreements with Duquesne Light and PP&L be deemed effective as of August 1, 1989.

Copies of the filing have been served upon the Town, the Coop, Duquesne Light, PP&L Metropolitan Edison Company, and upon the Maryland Public Service Commission and the Pennsylvania Public Utility Commission.

Comment date: October 11, 1989, in accordance with Standard Paragraph E end of this notice.

10. Iowa Power and Light Company

[Docket No. ER89-670-000]

September 27, 1989.

Take notice that on September 22, 1989, Iowa Power and Light Company (Iowa Power) tendered for filing an Interchange Agreement between Iowa Power and the City of Ames, Iowa, February 14, 1989.

Iowa Power states that the Interchange Agreement is a negotiated agreement specifying the respective rights and obligations of the parties; that it supersedes the 1970 Interchange Agreement; and that the Board of Trustees and the State Utilities Board have been mailed copies of the Agreement.

Iowa Power requests an effective date of February 14, 1989, and therefore

requests a waiver of the Commission's notice requirements.

Comment date: October 11, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of Indiana

[Docket No. ER89-672-000]

September 27, 1989.

Take notice that on September 25, 1989, Public Service Company of Indiana, Inc. (PSI) tendered for filing proposed Rate Schedule FS-1. PSI requests authorization to provide long-term firm power sales at negotiated rates to certain unaffiliated customers.

PSI states that copies of the filing have been served on the Indiana Utilities Regulatory Commission, the Attorney General of of the State of Indiana, the Utility Consumer Counselor, the Indiana Muncipal Power Agency, the Wabash Valley Power Association, the City of Logansport, Indiana, and PSI's existing wholesale customers who purchase under Rate MUN and Rate REMC-1.

Comment date: October 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 89-23502 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2111-005; Washington]

Pacific Power and Light Co.; Availability of Environmental Assessment

September 28, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application requesting approval for nonproject use of lands and waters of the Swift Hydroelectric Project on the Lewis River. The staff has prepared an environmental assessment (EA) for the proposed action. In the EA, staff concludes that approval of the nonproject use of project lands and waters would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Hearing Room A, of the Commission's offices, located at 825 North Capitol Street, NW., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23503 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-2064-000, et al.]

Colorado Interstate Gas Company, et al.—Natural Gas Certificate Filings

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

1. Colorado Interstate Gas Company

[Docket No. CP89-2064-000]

September 26, 1989.

Take notice that on September 6, 1989, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-2064-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities necessary to increase transmission capacity on a portion of its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that significant capacity can be created on its system by installing facilities on that portion of its system extending from Denver, Colorado through Colorado Springs and Pueblo, Colorado, to CIG's Campo Junction facility located in the extreme southeastern portion of Colorado. CIG indicates that this portion of its transmission system, known as the Valley Line, currently serves only those customers connected directly to it.

Since the issuance of Order Nos. 436 and 500, CIG states that it has experienced tremendous growth in the volumes of both firm and interruptible transportation gas flowing under agreements providing for delivery by CIG to third party pipelines connected to CIG's Southern System. (CIG states that it refers to that portion of its system connected to supplied in Texas, Oklahoma, Kansas, and southern Colorado as its Southern System.) CIG explains that requests for firm and interruptible service have already exceeded CIG's existing transmission system capacity and have resulted in the interruption of nonfirm transportation volumes on a number of occasions. CIG asserts that by increasing the capacity of the Valley Line, it would be in a position to accommodate additional firm transportation requests on its Southern System and to utilize its system more completely.

In order to accomplish this objective, CIG requests authority to construct and operate:

- Four 2,000 horsepower, high-speed reciprocating compressor units at the existing Watkins Station in Adams County, Colorado;
- A new compressor station consisting of three 2,000-horsepower, high-speed reciprocating compressor units in Pueblo County, Colorado;
- A new measurement facility at CIG's existing Campo Junction measurement and blending facility located in Baca County, Colorado;
- Miscellaneous facilities, including a new pressure-regulator station, minor additions and modifications to various existing regulator and meter stations, replacement of approximately 50 feet of 20-inch pipeline, and the uprating of the maximum allowable operating pressure of approximately 43 miles of 20-inch pipeline.

GIC notes that it would also install a thermal stabilization facility at the existing Watkins Compressor Station in order to condition the high-Btu gas flowing into the Valley Line from CIG's Northern System and to replace the air that is now injected into the gas flowing in the Valley Line. CIG asserts that the conditioning facility requires no certification under Section 2.55 of the Commission's Regulations.

GIC states that the proposed facilities would increase the capacity of the Valley Line to by approximately 116,000 Mcf per day. CIG estimates that the proposed facilities would cost approximately $17,900,000 and states that the project would be financed through a combination of funds on hand, internally generated cash, short-term loans and long-term loans.

Comment date: October 17, 1989, in accordance with Standard Paragraph F at the end of the notice.

2. Northwest Pipeline Corporation

[Docket No. CP89-789-000]

September 26, 1989.

Take notice that on February 3, 1989, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance new Service Agreements under Rate Schedules ODL-1 and DS-1, to be effective July 1, 1988, between Northwest and Cascade Natural Gas Corporation, CP National Corporation, City of Ellensburg, Intermountain Gas Company, Southwest Gas Corporation. Utah Gas Service Company, Washington Natural Gas Company, the Washington Water Power Company; October 1, 1988 between Northwest Natural Gas Company; and November 1, 1988 between Northwest and Wyoming Industrial Gas Company.

Northwest states the above-mentioned Service Agreements reflect its customers' requests to convert firm sales contract demand to firm transportation contract demand, pursuant to § 284.10(c)(3)(ii), and to the terms offered by Northwest on June 10, 1988, in docket number CP86-578-000.

Northwest requests effective dates of July 1, October 1 and November 1, 1988 for the new Service Agreements.

A copy of this filing has been mailed to the parties listed above.

Comment Date: October 10, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Tarpon Transmission Company

[Docket No. CP89-2142-000]

September 26, 1989.

Take notice that on September 20, 1989, Tarpon Transmission Company (Tarpon), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-2142-000 a request pursuant to section 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Chevron U.S.A. Inc. (Chevron), a producer of natural gas, under Tarpon's blanket certificate issued in Docket No. CP88-89-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tarpon requests authorization to transport, on an interruptible basis, up to a maximum of 35,770 MMBtu of natural gas per day for Chevron from a point of receipt located in Eugene Island Area Block 361, Offshore Louisiana to a point of delivery located in Ship Shoal Area Block 274, South Addition, Offshore Louisiana. Tarpon anticipates transporting 10, 103 MMBtu of natural gas on an average day and an annual volume of 3,687,595 MMBtu.

Tarpon states that the transportation of natural gas for Chevron commenced September 1, 1989, as reported in Docket No. ST89-4774-000, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations and the blanket certificate issued to Tarpon in Docket No. CP88-89-000.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP 89-2144-000]

September 26, 1989.

Take notice that on September 21, 1989 Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP89-2144-000 a request pursuant to sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Teepak, Inc. (Teepak), a shipper and end user of natural gas, pursuant to Panhandle's blanket certificate issued in Docket No. CP86-585-00 and section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Specifically, Panhandle requests authority to transport up to 1,600 Dt. per day on an interruptible basis on behalf of Teepak pursuant to a Transportation Agreement dated Aguust 1, 1989 between Panhandle and Teepak (Agreement). The Agreement provides for Panhandle to receive gas from Haven Pool in Reno County, Kansas. Panhandle will then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to Illinois Power-Danville #1, #2 and #3 in Vermilion County, Illinois.

The shipper states that the estimated daily and estimated annual quantities would be 1,600 Dt. and 584,000 Dt., respectively. Service under Section 284.223(a) commenced on August 1, 1989, as reported in Docket No. ST89-4660-000.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Company

[Docket No. CP 89-2121-000]

September 26, 1989.

Take notice that on September 19, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-2121-000 a request pursuant to section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon in place and by reclaim approximately 1.87 miles of 4-inch lateral pipeline and appurtenant facilities located in Brown and Atchison Counties, Kansas, and the transportation of gas through said facilities under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that the proposed abandonment would have no effect on service since there is an existing pipeline to continue service to the KPL Gas Service Horton town border and master meter currently being served by the Horton 4-inch lateral. It is stated that the reclaim cost is estimated to be $600 and the salvage value $0.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Williams Natural Gas Company

[Docket No. CP89-2153-000]

September 26, 1989.

Take notice that on September 22, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1826-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Williams Gas Marketing Company (WNG), a marketer of natural gas, under WNG's blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to transport, on a firm basis, up to 25,000 dt equivalent of natural gas on a peak day, 25,000 dt equivalent on an average day and 9,125,000 dt equivalent on an annual basis for WGM. It is stated that WNG would receive the gas for WGM's account at various receipt points on WNG's system in Colorado, Oklahoma, and Wyoming and would deliver equivalent volumes at various points, on WNG's system in Kansas, Missouri, and Nebraska. It is asserted that the transportation service would use existing facilities and would not require the construction of additional facilities. It is explained that the transportation service commenced August 1, 1989, under the self-implementing authorization provisions of section 284.223 of the Commission's Regulations, as reported in Docket No. ST89-4647.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89-2159-000]

September 26, 1989.

Take notice that on September 25, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89-2159-000 a request pursuant to sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.2120 for authorization to realign certain volumes and modify three existing delivery points to accommodate natural gas deliveries for Minnegasco, A Company of Diversified Energies, Inc. (Minnegasco), under Northern's blanket certificate issued in Docket No. CP82-401-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes, at Minnegasco's request, to realign Rate Schedule CD-1 firm sales service by increasing firm sales entitlements by 37,500 per day for five communities in Minnesota, and South Dakota served by Minnegasco [1] and by decreasing firm sales entitlements for the community of Lincoln, Nebraska by an equivalent amount. Northern indicates that the realignment of such volumes would not result in an increase in Northern's total peak day and total annual deliveries. It is indicated that Minnegasco has experienced load growth on those portions of its system for which increased entitlements are proposed, especially in the communities of St. Bonifacious, Waconia and Mound, Minnesota.

Northern indicates that to provide the requested realignment, it would make modifications to three existing town border stations located at St. Bonifacious No. 1, Waconia No. 1, and Mound No. 1, all located in the State of Minnesota. Northern states that the modifications at St. Bonifacius No. 1 and Mound No. 1 would consist of replacing the existing meters with larger capacity meters, and that Waconia No.1 would require an additional meter of the equivalent size of the existing meter. Northern estimates the cost of modifying the meters at $523,900, to be financed in accordance with Paragraph 2 of the General Terms and Conditions of Northern's FERC Gas Tariff, Third Revised Volume No. 1.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

[1] Northern proposes to increase CD-1 service for Sioux Falls, South Dakota by 500 Mcf, Minneapolis, Minnesota by 33,259 Mcf, Mound, Minnesota by 3,016 Mcf, St. Bonifacius, Minnesota by 636 Mcf and Waconia, Minnesota by 89 Mcf.

8. ANR Pipeline Company

[Docket No. CP89-2134-000]

September 26, 1989.

Take notice that on September 19, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-2134-000 a request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Transtate Gas Service Company (Transtate), a marketer of natural gas, under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport up to 11,195 dekatherms (dkt) of natural gas equivalent per day on an interruptible basis on behalf of Transtate pursuant to a transportation agreement dated April 5, 1989, between ANR and Transtate. ANR would receive the gas at various existing points of receipt in Louisiana, offshore Louisiana, Michigan and Texas and deliver equivalent volumes, less fuel used and unaccounted for line loss, at existing points of delivery in Michigan and Wisconsin.

ANR states that the estimated daily and annual quantities would be 11,195 dkt and 4,086,000 dkt, respectively. Service under Section 284.223(a) commenced on July 13, 1989, as reported in Docket No. ST89-4588-000, it is stated.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Iowa Public Service Company

[Docket No. CP89-2002-000]

September 27, 1989.

Take notice that on August 25, 1989, Iowa Public Service Company (IPS), 401 Douglas, P.O. Box 778, Sioux City, Iowa 51102, filed in Docket No. CP89-2002-000 an application requesting the Commission issue IPS a Section 7(f) determination for service area comprised of Union, Clay, Yankton [1] and Lincoln Counties of South Dakota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

IPS also requests that the Commission make a determination that IPS qualifies as a local distribution company (LDC) in the area proposed as a section 7(f) service area.

IPS states that it owns and operates a pipeline which extends from Sioux City, Iowa, across the South Dakota border (Big Sioux River) providing natural gas service at retail to the communities of North Sioux City and McCook Lake in South Dakota. All the gas transported serves both residential and commercial customers and is not for resale. IPS indicates that it has one arrangement to sell gas for resale off the ANR Pipeline Company (ANR) system whereby it purchases gas from ANR for resale to Great River Gas Company.

Comment date: October 18, 1989, in accordance with Standard Paragraph F at the end of this notice.

[1] IPS supplemented its application, by letter filed September 18, 1989, stating that the county of Yankton, South Dakota, should be inserted in the Notice of Application dated August 31, 1989, in place of the County of Turner, South Dakota.

10. Southern Natural Gas Company

[Docket No. CP89-2157-000]

September 27, 1989.

Take notice that on September 22, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, field in Docket No. CP89-2157-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Citizens Gas Supply Corporation (Citizens), a marketer, under the blanket certificate issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Southern states that pursuant to a service agreement dated June 26, 1989, under its Rate Schedule IT, it proposes to transport up to 35,000 MMBtu per day equivalent of natural gas for Citizens. Southern states that it would transport the gas from various receipt points in Texas, Louisiana, offshore Texas, offshore Louisiana, Mississippi and Alabama, and would deliver the gas to various production area points in Louisiana.

Southern advises that service under Section 284.223(a) commenced July 26, 1989, as reported in Docket No. ST89-4549-000. Southern further advises that it would transport 34,520 MMBtu on an

average day and 12,600,000 MMBtu annually.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Williams Natural Gas Company

[Docket No. CP89-2161-000]

September 27, 1989.

Take notice that on September 25, 1985, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-2161-000 a request pursuant to section 157.205 of the Commission's Regulations for permission to replace and relocate measuring, regulating and appurtenant facilities serving the Missouri Public Service Company (Missouri) Clinton town border and to construct replacement measuring, regulating and appurtenant facilities and approximately 0.1 mile of 4-inch pipeline to the new town border located in Johnson County, Missouri under William's blanket certificates issued in Docket No. CP82-479-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams states that the present town border facilities located approximately one mile south of Williams' Ottawa-Sedalia 12-inch pipeline are obsolete and oversized and are in need of replacement. Also, Williams states that Missouri owns the lateral pipeline upstream and downstream of Williams' town border station. The projected volumes of delivery through the replacement facilities is not expected to exceed the volumes currently being delivered of 585,095 Mcf per year with a maximum peak load of 6,465 Mcf per day, it is indicated. Williams states that the reclaim cost is estimated to be $3,060 with a salvage value of $500 and that the estimated cost of construction is approximately $51,650, which would be paid from funds on hands.

Williams states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without deteriment or disadvantage to its other customers. Williams further states it has discussed the proposals set forth herein with Missouri and that Missouri is in agreement with the proposals.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Southern Natural Gas Company

[Docket No. CP89-2156-000]

September 27, 1989.

Take notice that on September 22, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP89-2156-000 a request pursuant to sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Citizens Gas Supply Corporation (Citizens), a marketer, under Southern's blanket certificate issued in Docket No. CP88-316-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to transport, on an interruptible basis up to 35,000 MMBtu of natural gas equivalent per day on behalf of Citizens pursuant to a transportation agreement dated June 30, 1989, between Southern and Citizens. Southern would receive gas at various receipt points in Louisiana, offshore Louisiana, Mississippi, Alabama, Texas and offshore Texas and redeliver equivalent volumes of gas, less the applicable fuel charge set forth in Rate Schedule IT and any shrinkage, at various delivery points in Mississippi and Louisiana.

Southern further states that the estimated average daily and annual quanitities would be 34,520 MMBtu and 12,600,000 MMBtu, respectively. Service under section 284.223(a) commenced on July 26, 1989, as reported in Docket No. ST89-4548-000, it is stated.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Panhandle Eastern Pipe Line Company

[Docket No. CP89-2148-000]

September 27, 1989.

Take notice that on September 21, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-2148-000, a request pursuant to section 157.205 of the Commission's Regulations under the Natuaral Gas Act (18 CFR 157.205) for authorization to transport natural gas for Amgas, Inc. (Amgas), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle states that pursuant to a Transportation Agreement dated October 19, 1988, between Panhandle and Amgas (Agreement), it would transport up to 50,000 dekatherms (dt) per day equivalent of natural gas, on an interruptible basis, for Amgas. Panhandle further states that the Agreement provides for Panhandle to receive the natural gas from various existing points of receipt on its system in the states of Colorado, Illinois, Kansas, Michigan, Ohio, Oklahoma, Texas and Wyoming. Panhandle would then transport and redeliver the natural gas, less fuel used and unaccounted-for line loss, to various counties located in the state of Illinois.

Panhandle states that Amgas has indicated that the estimated daily and estimated annual quantities would be 25,000 dt and 18,250,000 dt, respectively.

Panhandle states that it commenced the transportation of natural gas for Amgas on August 1, 1989, as reported in Docket No. ST89-4682-000, for a 120-day period pursuant to section 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. El Paso Natural Gas Company

[Docket No. CP89-2152-000]

September 27, 1989.

Take notice that on September 22, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-2152-000 a request pursuant to sections 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to continue interruptible transportation service for Giant Industries, Inc. (Giant) under El Paso's blanket transportation certificate issued by the Commission on November 2, 1988, in Docket No. CP88-433-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that interruptible transportation service was initiated under Part 284, Subpart B of the Commission's Regulations on February 1, 1986, as reported by El Paso to the Commission on February 28, 1986, in Docket No. ST86-1030-000 Giant and El Paso have agreed to continue the transportation service under Subpart G of the Commission's Regulations and to terminate the Subpart B transportation service upon receipt of regulatory

authority for the Subpart G transportation. Therefore, El Paso requests authority for the interruptible transportation service for Giant, pursuant to Subpart G of the Commission's Regulations, of up to 5,381 MMBtu of natural Gas per day from any point of receipt on El Paso's system to delivery points in the State of New Mexico. El Paso states that the estimated daily and annual quantities of gas would be 3,693 MMBtu and 1,347,763 MMBtu, respectively.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. Panhandle Eastern Pipe Line Company

[Docket No. CP89-2146-000]

September 27, 1989.

Take notice that on September 22, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-2146-000 a request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Eli Lily and Company (Eli Lily) under the blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle states that pursuant to a Transportation Agreement dated August 1, 1989, between Panhandle and Eli Lily it proposes to transport up to 1,900 dt per day on a firm basis on behalf of Eli Lily. The Transportation Agreement provides for Panhandle to receive gas from Union Texas, Sohio, Producers, Producers Gas Company, Caliche Interconnect, and Oklahoma Natural Gas Company located in various counties of Oklahoma and CIG-Lakin in Kearny County, Kansas. Panhandle will then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to various counties in Indiana.

Panhandle states that the maximum day, average day and annual transportation volumes would approximately 1,900 dt., 1,900 dt., and 693,500 dt., respectively.

Panhandle further states that it commenced this service on August 1, 1989, as reported in Docket No. ST89-4670-000.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. United Gas Pipe Line Company

[Docket No. CP89-2146-000]

September 27, 1989.

Take notice that on September 25, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP89-2164-000 a request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under the blanket certificate issued in Docket No. CP88-6-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport natural gas on an interruptible basis for Gulf South Pipeline Company (Gulf South). United explains that service commenced July 26, 1989, under section 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-4699. United explains that the peak day quantity would be 309,000 MMBtu, the average daily quantity would be 309,000 MMBtu, and that the annual quantity would be 112,785,000 MMBtu. United explains that it would receive natural gas for Gulf South's account at various receipt points in the States of Louisiana, Texas and Offshore Louisiana. United States that it would redeliver the gas at interconnections in the States of Louisiana, Alabama and Mississippi.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. The Inland Gas Company, Inc.

[Docket No. CP89-2138-000]

September 27, 1989.

Take notice that on September 19, 1989, The Inland Gas Company, Inc. (Inland), 336-338 Fourteenth Street, Ashland, Kentucky 41101, filed in Docket No. CP89-2138-000 a request pursuant to section 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Armco Steel Company, L.P. (Armco), under Inland's blanket certificate issued in Docket No. CP89-779-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Inland requests authorization to transport, on an interruptible basis, up to a maximum of 15,700 MMBtu equivalent of natural gas per day for Armco from receipt points located in Kentucky to delivery points located in Kentucky. Inland anticipates transporting, on an average day 9,950 MMBtu and an annual volume of 3,631,750 MMBtu.

Inland states that the transportation of natural gas for Armco commenced August 4, 1989, as reported in Docket No. ST89-4535-000, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations and the blanket certificate issued to Inland in Docket No. CP89-779-000.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

18. Panhandle Eastern Pipe Line Company

[Docket No. CP89-2145-000]

September 27, 1989.

Take notice that on September 21, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77152-1642, filed in Docket No. CP89-2145-000 an application pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Home Petroleum Corporation transport natural gas on behalf of Home Petroleum Corporation (Home Petroleum), a producer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86-585-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport, on an interruptible basis, up to 20,000 Dt. equivalent of natural gas per day for Home Petroleum. Panhandle states that construction of facilities would not be required to provide the proposed service.

Panhandle further states that the maximum day, average day, and annual transportation volume would be approximately 20,000 Dt. equivalent, 20,000 Dt. equivalent and 7,300,000 Dt. equivalent respectively.

Panhandle advises that service under Section 284.223(a) commenced August 1, 1989, as reported in Docket No. ST89-4667.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

18. Texas Eastern Transmission Corporation

[Docket No. CP89-2151-000]

September 27, 1989.

Take notice that on September 21, 1989, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed a

request with the Commission in Docket No. CP89-2151-000 pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to provide an interruptible transportation service for Diamond Shamrock Offshore Partners, Limited Partnership (Diamond Shamrock), a natural gas producer, under the blanket certificate issued by the Commission in Order No. 509 pursuant to section 7 of the NGA, corresponding to the rates, terms, and conditions filed in Docket No. RP89-95-000, all as more fully set forth in the request which is open to the public inspection.

Texas Eastern proposes, pursuant to a July 7, 1989, transportation agreement under its Rate Schedule IT-1, a daily interruptible transportation service for Diamond Shamrock of up to 2,200 MMBtu equivalent of natural gas. Texas Eastern would receive Diamond Shamrock's gas at an existing High Island Block 289, offshore Texas, receipt point and deliver the gas for Diamond Shamrock's account at an existing West Cameron Block 543, offshore Louisiana, delivery point to Natural Gas Pipeline Company of America. Texas Eastern estimates that it would transport annually 803,000 MMBtu equivalent of natural gas for Diamond Shamrock. Texas Eastern also states that it commenced transportation service for Diamond Shamrock on August 1, 1989, as reported in Docket No. ST89-4568.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

20. Texas Gas Transmission Corporation

[Docket No. CP89-2167-000]

September 27, 1989.

Take notice that on September 26, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-2167-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Commonwealth Gas Company (Commonwealth), under the blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that pursuant to a transportation agreement dated May 30, 1989, under its Rate Schedule IT, it proposes to transport up to 100,000 MMBtu per day equivalent of natural gas for Commonwealth. Texas Gas states that it would transport the gas from multiple receipt points as shown in Exhibit "B" of the transportation agreement and would deliver the gas to deliver points in Warren County, Ohio, as shown in Exhibit "C" of the agreement.

Texas Gas advises that service under Section 284.223(a) commenced August 18, 1989, as reported in Docket No. ST89-4683. Texas Gas further advises that it would transport 100,000 MMBtu on an average day and 36,500,000 MMBtu annually.

Comment date: November 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23504 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3783-001, et al.]

Conoco Inc. et al.; Applications for Termination or Amendment of Certificates [1]

September 27, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to terminate or amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 17, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-3783-001, D, 9-14-89	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	El Paso Natural Gas Company, San Juan, *et al.*, Fields, (Allison Unit Area), La Plata and Archuleta Counties, Colorado and San Juan County, NM.	Assigned 8-1-89 to Robert L. Bayless.
G-12564-000, D, 9-18-89	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	El Paso Natural Gas Company, New Mexico Federal Unit Leases, Lea County, NM.	Assigned 1-24-89 to V.H. Westbrook.
CI62-942-000, D, 9-1-89	Conoco Inc.	Northern Natural Gas Company, Division of Enron Corp., Eumont-Monument Field, Lea County, NM.	Assigned 7-1-89 to John H. Hendrix Corporation.
CI85-490-001, D, 9-14-89	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	El Paso Natural Gas Company, New Mexico Federal Unit Leases, Lea County, NM.	Assigned 1-20-89 to Charles W. Kemp.
CI89-538-000 (CI73-41), D, 9-5-89.	Conoco Inc.	Panhandle Eastern Pipe Line Company, Angel Field, Meade County, KS.	Assigned 7-1-89 to A.L. Abercrombie, Inc.
CI89-539-000 (G-10127), D, 9-5-89.	Chevron U.S.A. Inc., P.O. Box 3725, Houston, TX 77253-3725.	Florida Gas Transmission Company, Mustang Island Field, Nueces County, TX.	Assigned 7-1-89 to Merrico Resources, Inc.
CI89-540-000 (CI86-120-000), D, 9-1-89.	ENSTAR Corporation, P.O. Box 2120, Houston, TX 77252-2120.	ANR Pipeline Company, South Briscoe Field, Wheeler County, TX.	Assigned 10-1-87 to Memorial Exploration Company.
CI89-541-000 (CI87-442) (CI87-43) (CI87-444) (CI87-445), D, 9-12-89.	Enron Oil & Gas Company, P.O. Box 1188, Houston, TX.	Williston Basin Interstate Pipeline Company, Boxcar Butte Field, McKenzie County ND.	Assigned 9-1-88 to Quanterra Alpha Limited Partnership.
CI89-542-000 (CI76-303), D, 9-12-89.	Enron Oil & Gas Company	Northern Natural Gas Company, Division of Enron Corp., Ozona Field, Crockett County, TX.	Assigned 9-1-88 to Ladd Petroleum Company.
CI89-543-000 (CI87-446) D, 9-13-89.	Enron Oil & Gas Company	Panhandle Eastern Pipe Line Company, Hambert Field, Weld County, CO.	Assigned 12-15-88 to Prima Oil & Gas Company.
CI89-544-000 (CI87-448), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Armstrong CT #1, Eagle Creek Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-449), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Vandiven, DO #1, Atoka West Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-450), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Caskey EV Com #1, Eagle Creek Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-451), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Terry FU #1, Cotton Wood Creek Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-453), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Federal CZ #1, Eagle Creek Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-454), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Federal FC #1, Eddy Uno Field, Charles County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-455), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Federal BZ #12, Eagle Creek Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-456), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company Arco EC #2, Eagle Creek Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-544-000 (CI87-457), D, 9-13-89.	Enron Oil & Gas Company	Transwestern Pipeline Company, Arco EC State #1-B, Eagle Creek East Field, E.J. Hnulik C #1, Kennedy Farms Field, Eddy County, NM.	Assigned 12-29-88 to Yates Petroleum Corporation.
CI89-546-000 (CI87-461), D, 9-13-89.	Enron Oil & Gas Company	El Paso Natural Gas Company, Williamson BC #3, #4, #5, Burton Flat N. Field, Eddy County, NM.	Assigned 12-30--88 to Yates Petroleum Corporation.
CI89-546-000 (CI75-720), D, 9-13-89.	Enron Oil & Gas Company	El Paso Natural Gas Company, Cooper Federal #1, Cooper (Morrow) Field, Lea County, NM.	Assigned 12-30-88 to Quinoco Petroleum, Inc.
CI89-546-000 (CI78-697), D, 9-13-89.	Enron Oil & Gas Company	El Paso Natural Gas Company, Woods 9 Com #1, #2, Ogden 8 Comm #1, Malaga West Field, Eddy County, NM.	Assigned 12-30-88 to Quinoco Petroleum, Inc.
CI89-547-000 (CI64-1306), D, 9-18-89.	Conoco Inc.	El Paso Natural Gas Company, Ignacio Field, La Plata County, CO.	Assigned 8-1-89 to Robert L. Bayless.

Filing code: A—Initial service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial succession.

[FR Doc. 89-23505 Filed 10-4-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. G-2737-011, et al.]

Conoco Inc., et al.; Applications for Certificates and Abandonment of Service [1]

September 27, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 17, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-2737-011, B, 9-7-89	Conoco Inc., P.O. Box 2197, Houston, TX 77252.	Williams Natural Gas Company, West Panhandle Field, Carson and Gray Counties, TX.	Lease reverted. Well assigned 2-17-89 to Bryan Exploration Company.
G-4579-063, B, 9-1-89	OXY USA Inc., P.O. Box 300, Tulsa, OK 74102.	Northern Natural Gas Company, Division of Enron Corp., Various Leases, Morton County, KS.	Leases reverted.
CI89-209-000 (CI76-490-001), B, 1-5-89.	Chevron U.S.A. Inc., P.O. Box 3725, Houston, TX 77253.	Northern Natural Gas Company, Division of Enron Corp., Farnsworth Field, Ochiltree County, TX.	Lease Nos. 23-T(A) and 24-T(A) expired. Remaining acreage assigned 7-24-87 to Atlantic Energy Corporation.
CI89-500-000 (G-3894), B, 8-7-89.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	Mid-Louisiana Gas Company, Vixen Field, Caldwell Parish, LA.	Well plugged and abandoned.
CI89-545-000, E, 9-14-89	Oryx Energy Company, P.O. Box 2880, Dallas, TX 75221-2880.	Natural Gas Pipeline Company of America, Indian Basin Field, Eddy County, NM.	Acreage acquired 3-1-89 from Citation Oil & Gas Corp.

[FR Doc. 89-23506 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST89-4359-000 through ST89-4637-000]

Rocky Mountain Natural Gas Co., Inc., et al.; Self-Implementing Transactions

September 28, 1989.

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

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

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

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to section 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before October 19, 1989.

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

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

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

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

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

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

A "K" indicates transportation of natural gas on the Outer Continental

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

Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to section 284.303 of the Commission's regulations.

A "K-S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 282.303 of the Commission's regulations.

Lois D. Cashell,
Secretary.

Docket Number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date	Transportation rate (c/MMBTU)
ST89-4359	Rocky Mountain Natural Gas Co., Inc	Intermountain Gas Co	08-01-89	G-HT		
ST89-4360	Trunkline Gas Co	Central Illinois Light Co	08-01-89	B		
ST89-4361	Panhandle Eastern Pipe Line Co	Angas, Inc	08-01-89	G-S		
ST89-4362	Valero Interstate Transmission Co	VT,L.P.	08-01-89	B		
ST89-4363	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	08-01-89	B		
ST89-4364	Kansas Power and Light Co	Northern Natural Gas Co	08-01-89	C		
ST89-4365	Columbia Gulf Transmission Co	Elf Aquitaine, Inc	08-01-89	G-S		
ST89-4366	Valero Transmission L.P.	Transcontinental Gas Pipe Line Corp	08-02-89	C		
ST89-4367	Arkla Energy Resources	Houston Lighting and Power Co	08-02-89	B		
ST89-4368	SNG Intrastate Pipeline, Inc	Tennessee Gas Pipeline Co	08-02-89	C	12-30-89	13.50
ST89-4369	Trans Texas Pipeline	United Gas Pipe Line Co	08-03-89	C		
ST89-4370	K N Energy, Inc	Peoples Natural Gas Co	08-03-89	B		
ST89-4371	K N Energy, Inc	Northern Illinois Gas Co	08-03-89	B		
ST89-4372	K N Energy, Inc	Miami Pipeline Co	08-03-89	B		
ST89-4373	K N Energy, Inc	BP Gas Transmission Co	08-03-89	B		
ST89-4374	K N Energy, Inc	Kansas Pipeline Co	08-03-89	B		
ST89-4375	K N Energy, Inc	Northern Intrastate Pipeline Co	08-03-89	B		
ST89-4376	K N Energy, Inc	Hastings Utilities, et al	08-03-89	B		
ST89-4377	K N Energy, Inc	Associated Intrastate Pipeline Co	08-03-89	B		
ST89-4378	K N Energy, Inc	Peoples Natural Gas Co	08-03-89	B		
ST89-4379	K N Energy, Inc	Northwestern Public Service Co	08-03-89	B		
ST89-4380	K N Energy, Inc	MGTC, Inc	08-03-89	B		
ST89-4381	K N Energy, Inc	Amoco Gas Co	08-03-89	B		
ST89-4382	Black Marlin Pipeline Co	Oxy U.S.A., Inc	08-03-89	K-S		
ST89-4383	Natural Gas Pipeline Co. of America	North Shore Gas Co	08-03-89	B		
ST89-4384	Natural Gas Pipeline Co. of America	Acacia Gas Corp	08-03-89	G-S		
ST89-4385	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	08-03-89	B		
ST89-4386	United Gas Pipe Line Co	Mobile Gas Service Corp	08-03-89	B		
ST89-4387	Mid Louisiana Gas Co	Tennessee Gas Pipeline Co	08-03-89	G		
ST89-4388	Colorado Interstate Gas Co	MGTC, Inc	08-04-89	B		
ST89-4389	Colorado Interstate Gas Co	MGTC, Inc	08-04-89	B		
ST89-4390	Colorado Interstate Gas Co	MGTC, Inc	08-04-89	B		
ST89-4391	Texas Gas Transmission Corp	Access Energy Corp	08-03-89	G-S		
ST89-4392	Texas Gas Transmission Corp	Eastern Stainless Corp	08-03-89	G-S		
ST89-4393	Transcontinental Gas Pipe Line	BP Gas Transmission Co	08-03-89	B		
ST89-4394	Stingray Pipeline Co	Union Exploration Partners, Ltd	08-04-89	K-S		
ST89-4395	BP Gas Transmission Co	ANR Pipeline Co., et al	08-04-89	C	01-01-90	13.70
ST89-4396	BP Gas Transmission Co	ANR Pipeline Co., et al	08-04-89	C	01-01-90	13.70
ST89-4397	Tennessee Gas Pipeline Co	Columbia Gas Development Corp	08-04-89	G-S		
ST89-4398	Tennessee Gas Pipeline Co	Bridgeline Gas Distribution Co	08-04-89	B		
ST89-4399	Columbia Gas Transmission Corp	Elizabethtown Gas Co	08-04-90	B		
ST89-4400	Williams Natural Gas Co	Reliance Gas Marketing Co	08-04-89	B		
ST89-4401	Northwest Pipeline Corp	Exxon Corp	08-04-89	G-S		
ST89-4402	Northwest Pipeline Corp	Exxon Corp	08-04-89	G-S		
ST89-4403	Panhandle Eastern Pipe Line Co	Providence Gas Co	08-04-89	B		
ST89-4404	Transcontinental Gas Pipe Line Comp	Louisiana Resources Co	08-04-89	B		
ST89-4405	Northern National Gas Co	Feagan Gathering Co	08-07-89	G-S		
ST89-4406	ONG Transmission Co	Getty Gas Gathering, Inc	08-07-89	C	01-04-90	24.32
ST89-4407	ONG Transmission Co	United Gas Pipe Line Co	08-07-89	C	01-04-90	24.32
ST89-4408	Tennessee Gas Pipeline Co	Yankee Gas Services Co	08-07-89	B		
ST89-4409	El Paso Natural Gas Co	Mallon Oil Co	08-07-89	G-S		
ST89-4410	Natural Gas Pipeline Co. of America	Pacific Gas and Electric Co	08-07-89	B		
ST89-4411	El Paso Natural Gas Co	Southern Industrial Gas Corp	08-07-89	B		
ST89-4412	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	08-07-89	B		
ST89-4413	Natural Gas Pipeline Co. of America	North Shore Gas Co	08-07-89	B		
ST89-4414	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	08-07-89	B		
ST89-4415	Natural Gas Pipeline Co. of America	Public Service Elect. & Gas Co., et al	08-07-89	B		
ST89-4416	Equitrans, Inc	Equitable Resources Marketing Co	08-07-89	G-S		
ST89-4417	Western Transmission Corp	Stauffer Wyoming Pipeline Co	08-07-89	B		
ST89-4418	Columbia Gas Transmission Corp	Brooklyn Interstate Natural Gas Corp	08-07-89	G-S		
ST89-4419	Trunkline Gas Co	Providence Gas Co	08-07-89	B		
ST89-4420	Transcontinental Gas Pipe Line Corp	Bishop Pipeline Corp	08-07-89	B		
ST89-4421	Northwest Pipeline Corp	Conoco, Inc	08-07-89	G-S		
ST89-4422	Arkla Energy Resources	Associated Intrastate Pipeline Co	08-07-89	B		
ST89-4423	El Paso Natural Gas Co	Cabot Gas Supply Corp	08-08-89	G-S		
ST89-4424	United Gas Pipe Line Co	Seagull Marketing Services, inc	08-09-89	G-S		
ST89-4425	United Gas Pipe Line Co	Air Products & Chemicals, Inc	08-09-89	G-S		
ST89-4426	Northwest Pipeline Corp	Greeley Gas Co	08-09-89	B		
ST89-4427	Northwest Pipeline Corp	Coastal Gas Marketing Co	08-09-89	G-S		
ST89-4428	Northwest Pipeline Corp	Gasmark Inc	08-09-89	G-S		
ST89-4429	Panhandle Eastern Pipe Line Co	Phillips 66 Natural Gas Co	08-09-89	G-S		
ST89-4430	Colorado Interstate Gas Co	Vesgas Co	08-09-89	B		
ST89-4431	Columbia Gulf Transmission Co	Exxon Corp	08-09-89	G-S		
ST89-4432	Valero Transmission, L.P.	Transcontinental Gas Pipe Line Corp	08-10-89	C		

Docket Number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date	Transportation rate (c/MMBTU)
ST89-4433	Stingray Pipeline Co	Phillips Petroleum Co	08-10-89	K-S		
ST89-4434	Stingray Pipeline Co	Enmark Gas Corp	08-10-89	K-S		
ST89-4435	Tennessee Gas Pipeline Co	Columbia Gas Transmisstion Corp	08-10-89	G		
ST89-4436	Transwestern Pipeline Co	Union Pacific Resources Co	08-10-89	G-S		
ST89-4437	Panhandle Eastern Pipe Line Co	Levinson Partners Corp	08-10-89	G-S		
ST89-4438	Panhandle Eastern Pipe Line Co	Gastrak Corp	08-10-89	G-S		
ST89-4439	Panhandle Eastern Pipe Line Co	Access Energy Pipeline Corp	08-10-89	B		
ST89-4440	Columbia Gulf Transmission Co	Entrade Corp	08-10-89	G-S		
ST89-4441	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing Co	08-10-89	G-S		
ST89-4442	Texas Eastern Transmission Corp	Elizabethtown Gas Co	08-10-89	B		
ST89-4443	K N Energy, Inc	Delhi Gas Pipeline Corp	08-11-89	B		
ST89-4444	K N Energy, Inc	Delhi Gas Pipeline Corp	08-11-89	B		
ST89-4445	K N Energy, Inc	Delhi Gas Pipeline Corp	08-11-89	B		
ST89-4446	K N Energy, Inc	Associated Intrastate Pipeline Co	08-11-89	B		
ST89-4447	K N Energy, Inc	Metropolitan Utils. Dist. of Omaha	08-11-89	B		
ST89-4448	K N Energy, Inc	Colony Energy Corp	08-11-89	B		
ST89-4449	Williams Natural Gas Co	Midwest Grain Pipeline, Inc	08-11-89	B		
ST89-4450	Northern Natural Gas Co	Pacific Gas and Electric Co	08-11-89	B		
ST89-4451	Northern Natural Gas Co	Enron Gas Marketing, Inc	08-11-89	G-S		
ST89-4452	Texas Eastern Transmission Corp	Texas Industrial Energy Co	08-11-89	B		
ST89-4453	Texas Eastern Transmission Corp	Olympic Pipeline Co	08-11-89	B		
ST89-4454	Columbia Gulf Transmission Co	Meth Corp	08-11-89	G-S		
ST89-4455	Columbia Gulf Transmission Co	Meth Corp	08-11-89	G-S		
ST89-4456	Columbia Gas Transmission Corp	NGC Intrastate Pipeline Co	08-11-89	B		
ST89-4457	Paiute Pipeline Co	Westar Marketing Co	08-14-89	G-S		
ST89-4458	Tennessee Gas Pipeline Co	General Refractories Co	08-11-89	G-S		
ST89-4459	Natural Gas Pipeline Co of America	Lavaca Pipe Line Co	08-14-89	B		
ST89-4460	Trunkline Gas Co	Natural Gas Clearinghouse, Inc	08-14-89	K-S		
ST89-4461	United Gas Pipe Line Co	Victoria Gas Corp	08-14-89	G-S		
ST89-4462	Columbia Gulf Transmission Co	Phibro Distributors Corp	08-14-89	G-S		
ST89-4463	Columbia Gulf Transmission Co	American Central Gas Marketing Co	08-14-89	G-S		
ST89-4464	Columbia Gulf Transmission Co	Alabama-Tennessee Natural Gas Co	08-14-89	B		
ST89-4465	Tennessee Gas Pipeline Co	City of Lexington	08-15-89	B		
ST89-4466	Natural Gas Pipeline Co. of America	Enmark Gas Corp	08-15-89	B		
ST89-4467	Natural Gas Pipeline Co. of America	American Central Gas Marketing Co	08-15-89	G-S		
ST89-4468	Texas Gas Transmission Corp	River Gas Co	08-15-89	B		
ST89-4469	Texas Gas Transmission Corp	Chevron U.S.A., Inc	08-15-89	G-S		
ST89-4470	Texas Gas Transmission Corp	Coastal Gas Marketing Co	08-15-89	G-S		
ST89-4471	Texas Gas Transmission Corp	Enron Gas Marketing, Inc	08-15-89	G-S		
ST89-4472	United Gas Pipe Line Co	Laser Marketing Co	08-15-89	G-S		
ST89-4473	Southern Natural Gas Co	Diamond Shamrock Nat. Gas Marketing Co	08-15-89	G-S		
ST89-4474	Southern Natural Gas Co	Total Minatome Corp	08-15-89	G-S		
ST89-4475	Southern Natural Gas Co	Total Minatome Corp	08-15-89	G-S		
ST89-4476	Southern Natural Gas Co	American Central Gas Marketing Co	08-15 -89	G-S		
ST89-4477	Southern Natural Gas Co	Diamond Shamrock Offshore Partners, L.P.	08-15-89	G-S		
ST89-4478	Southern Natural Gas Co	Manville Sales Corp	08-15-89	G-S		
ST89-4479	Southern Natural Gas Co	Centran Corp	08-15-89	G-S		
ST89-4480	Southern Natural Gas Co	Total Minatome Corp	08-15-89	G-S		
ST89-4481	Southern Natural Gas Co	Total Minatome Corp	08-15-89	G-S		
ST89-4482	Arkla Energy Resources	AER Intrastate	08-16-89	B		
ST89-4483	El Paso Natural Gas Co	Bridgegas U.S.A. Inc	08-16-89	G-S		
ST89-4484	United Texas Transmission Co	Transcontinental Gas Pipe Line Corp	08-17-89	C		
ST89-4485	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	08-16-89	B		
ST89-4486	Northwest Pipeline Corp	Fuel Resources Development Co	08-16-89	G-S		
ST89-4487	Transcontinental Gas Pipe Line Corp	Peoples Natural Gas Co	08-17-89	B		
ST89-4488	Transcontinental Gas Pipe Line Corp	North Penn Gas Co	08-17-89	B		
ST89-4489	Transcontinental Gas Pipe Line Corp	Transco Energy Marketing Co	08-17-89	G-S		
ST89-4490	Transcontinental Gas Pipe Line Corp	Corpus Christi Transmission Co	08-17-89	B		
ST89-4491	Northern Natural Gas Co	Cabot Gas Supply Corp	08-17-89	B		
ST89-4492	Northern Natural Gas Co	V.H.C. Gas System, L.P.	08-17-89	G-S		
ST89-4493	United Gas Pipe Line Co	Graham Energy Marketing Co	08-17-89	G-S		
ST89-4494	Trans Texas Pipeline	Transcontinental Gas Pipe Line Corp	08-18-89	C		
ST89-4495	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp., Et Al	08-18-89	B		
ST89-4496	Texas Eastern Transmission Corp	Apollo Gas Co	08-18-89	B		
ST89-4497	Texas Eastern Transmission Corp	Teco Pipeline Company	08-18-89	B		
ST89-4498	Texas Eastern Transmission Corp	Consumers Power Co	08-18-89	B		
ST89-4499	Northern Natural Gas Co	Amoco Gas Co	08-18-89	B		
ST89-4500	Northern Natural Gas Co	Texline Gas Co	08-18-89	B		
ST89-4501	Northern Natural Gas Co	Carnation Co	08-18-89	G-S		
ST89-4502	Northern Natural Gas Co	WTG Exploration, Inc	08-18-89	G-S		
ST89-4503	Northern Natural Gas Co	Sun Operating LTD. Partnership	08-18-89	G-S		
ST89-4504	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4505	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4506	CNG Transmission Corp	Cuyahoga Asphalt Co	08-18-89	G-S		
ST89-4507	CNG Transmission Corp	Osborne Concrete & Stone Co	08-18-89	G-S		
ST89-4508	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4509	CNG Transmission Corp	Stand Energy Corp	08-18-89	G-S		
ST89-4510	CNG Transmission Corp	Grand River Asphalt Co	08-18-89	G-S		
ST89-4511	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4512	CNG Transmission Corp	Appex International Alloys, Inc	08-18-89	G-S		
ST89-4513	CNG Transmission Corp	Lake Erie Asphalt Preoduction, Inc	08-18-89	G-S		

Docket Number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date	Transportation rate (c/MMBTU)
ST89-4514	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4515	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4516	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4517	CNG Transmission Corp	Brooklyn Interstate Natural Gas Co	08-18-89	G-S		
ST89-4518	Dow Pipeline Co	Transcontinental Gas Pipe Line Corp	08-21-89	C	01-18-90	07.31
ST89-4519	Dow Pipeline Co	El Paso Natural Gas Co	08-21-89	C	01-18-90	07.31
ST89-4520	Texas Gas Transmission Corp	American Central Gas Marketing Co	08-21-89	G-S		
ST89-4521	Texas Gas Transmission Corp	Tejas Power Corp	08-21-89	G-S		
ST89-4522	Texas Gas Transmission Corp	Tejas Power Corp	08-21-89	G-S		
ST89-4523	Equitrans, Inc	Angerman Associates, Inc	08-21-89	G-S		
ST89-4524	Equitrans, Inc	Consolidated Fuel Corp	08-21-89	G-S		
ST89-4525	Colorado Interstate Gas Co	Llano, Inc	08-21-89	B		
ST89-4526	Northwest Pipeline Corp	Texaco, Inc	08-21-89	G-S		
ST89-4527	Sabine Pipe Line Co	Brooklyn Union Gas Co	08-21-89	B		
ST89-4528	Transok, Inc	Natural Gas Pipeline Co. of America	08-22-89	C	01-19-90	32.50
ST89-4529	Williston Basin Interstate P/L Co	Quivira Gas Co	08-23-89	B		
ST89-4530	Williston Basin Interstate P/L Co	Northern Illinois Gas Co	08-23-89	B		
ST89-4531	Williston Basin Interstate P/L Co	MGTC, Inc	08-23-89	B		
ST89-4532	Williston Basin Interstate P/L Co	Quivira Gas Co	08-23-89	B		
ST89-4533	Williston Basin Interstate P/L Co	Cody Gas Co	08-23-89	B		
ST89-4534	Williston Basin Interstate P/L Co	Montana-Dakota Utilities Co	08-23-89	B		
ST89-4535	Inland Gas Co., Inc. (The)	Armco Steel Co., L.P.	08-22-89	G-S		
ST89-4536	Inland Gas Co., Inc. (The)	American National Rubber Co	08-22-89	G-S		
ST89-4537	Inland Gas Co., Inc. (The)	Kentucky Electric Steel Corp	08-22-89	G-S		
ST89-4538	Inland Gas Co., Inc. (The)	Louisville Fire Brick Works	08-22-89	G-S		
ST89-4540	Tennessee Gas Pipeline Co	Peidmont Natural Gas Co	08-23-89	B		
ST89-4541	Tennessee Gas Pipeline Co	City of Ripley	08-23-89	B		
ST89-4542	Trunkline Gas Co	Access Energy Pipeline Corp	08-23-89	B		
ST89-4543	Trunkline Gas Co	PPG Industries, Inc	08-23-89	G-S		
ST89-4544	Panhandle Eastern Pipe Line Co	Amgas, Inc	08-23-89	G-S		
ST89-4545	United Texas Transmission Co	Phillips Natural Gas Co	08-24-89	C		
ST89-4546	Natural Gas Pipeline Co. of America	Hadson Gas Systems, Inc	08-24-89	G-S		
ST89-4547	Southern Natural Gas Co	Transco Energy Marketing Co	08-18-89	G-S		
ST89-4548	Southern Natural Gas Co	Citizens Gas Supply Corp	08-18-89	G-S		
ST89-4549	Southern Natural Gas Co	Citizens Gas Supply Corp	08-18-89	G-S		
ST89-4550	Southern Natural Gas Co	Entrade Corp	08-18-89	G-S		
ST89-4551	Southern Natural Gas Co	Entrade Corp	08-18-89	G-S		
ST89-4552	United Gas Pipe Line Co	Transamerican Gas Transmission Corp	08-24-89	B		
ST89-4553	United Gas Pipe Line Co	CNG Trading Co	08-24-89	G-S		
ST89-4554	Columbia Gulf Transmission Co	Northern Illinois Gas Co	08-24-89	B		
ST89-4555	Enogex Inc	Panhandle Eastern Pipe Line Co	08-24-89	C	01-21-90	43.57
ST89-4556	Natural Gas Pipeline Co. of America	Iowa-Illinois Gas & Electric Co	08-25-89	B		
ST89-4557	Paiute Pipeline Co	R.R. Donnelley & Sons Co	08-25-89	G-S		
ST89-4558	Florida Gas Transmission Co	PSI, Inc	08-25-89	K-S		
ST89-4559	Florida Gas Transmission Co	PSI, Inc	08-25-89	K-S		
ST89-4560	Florida Gas Transmission Co	PSI, Inc	08-25-89	K-S		
ST89-4561	Northern Natural Gas Co	Peoples Natural Gas Co	08-25-89	B		
ST89-4562	Northern Natural Gas Co	NGP Pipeline Co	08-25-89	B		
ST89-4563	Northern Natural Gas Co	Phibro Distributors Corp	08-25-89	G-S		
ST89-4564	Tomcat	Texas Eastern Transmission Corp	08-25-89	C	01-22-90	11.00
ST89-4565	Tennessee Gas Pipeline Co	North Penn Gas Co	08-25-89	B		
ST89-4566	El Paso Natural Gas Co	Gas Co. of NM (Div. Public Serv. Co. NM)	08-25-89	G-S		
ST89-4567	El Paso Natural Gas Co	TXO Gas Marketing Corp	08-25-89	G-S		
ST89-4568	Texas Eastern Transmission Corp	Diamond Shamrock Offshore Partners L.P.	08-25-89	G-S		
ST89-4569	Algonquin Gas Transmission Co	Connecticut Natural Gas Corp	08-25-89	B		
ST89-4570	Williams Natural Gas Co	Rangeline Corp	08-25-89	G-S		
ST89-4571	Columbia Gas Transmission Corp	Inland Gas Co., Inc. (The)	08-28-89	G-S		
ST89-4572	Pacific Gas Transmission Co	Pacific Gas and Electric Co	08-28-89	B		
ST89-4573	ONG Transmission Co	Phillips Gas Pipeline Co	08-28-89	C	01-25-90	24.32
ST89-4574	ONG Transmission Co	Williams Natural Gas Co	08-28-89	C	01-25-90	24.32
ST89-4575	ONG Transmission Co	Natural Gas Pipeline Co. of America	08-28-89	C	01-25-90	24.32
ST89-4576	El Paso Natural Gas Co	San Diego Gas & Electric Co	08-29-89	G-S		
ST89-4577	Mid Louisiana Gas Co	Mobil Natural Gas, Inc	08-29-89	G-S		
ST89-4578	Mid Louisiana Gas Co	Shell Gas Trading Co	08-29-89	G-S		
ST89-4579	Mid Louisiana Gas Co	NGC Transportation, Inc	08-29-89	G-S		
ST89-4580	BP Gas Transmission Co	ANR Pipeline Co., et al.	08-29-89	C	01-26-90	13.70
ST89-4581	ONG Transmission Co	Iowa Public Service Co	08-29-89	C	01-26-90	24.32
ST89-4582	Tennessee Gas Pipeline Co	Desoto Pipeline Co	08-29-89	B		
ST89-4583	Natural Gas Pipeline Co. of America	Seagull Marketing Services, Co	08-29-89	G-S		
ST89-4584	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	08-29-89	B		
ST89-4585	United Gas Pipe Line Co	Texican Natural Gas Co	08-28-89	G-S		
ST89-4586	ANR Pipeline Co	Nothern Illinois Gas Co	08-29-89	B		
ST89-4587	ANR Pipeline Co	Coastal States Gas Transmission Co	08-29-89	B		
ST89-4588	ANR Pipeline Co	Transtate Gas Service Co	08-29-89	G-S		
ST89-4589	ANR Pipeline Co	Phillips 66 Natural Gas Co	08-29-89	G-S		
ST89-4590	ANR Pipeline Co	Southeastern Michigan Gas Co	08-29-89	B		
ST89-4591	ANR Pipeline Co	Northern Illinois Gas Co	08-29-89	B		
ST89-4592	ANR Pipeline Co	Coastal Gas Marketing Co	08-29-89	G-S		
ST89-4593	Transok, Inc	Williams Natural Gas Co	08-29-89	C	01-26-90	32.50
ST89-4594	ANR Pipeline Co	Longhorn Pipeline Co	08-30-89	B		
ST89-4595	ANR Pipeline Co	BP Gas Transmission Co	08-30-89	B		

Docket Number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date	Transportation rate (c/MMBTU)
ST89-4596	ANR Pipeline Co	Ohio Valley Gas Corp	08-30-89	B		
ST89-4597	ANR Pipeline Co	NGC Intrastate Pipeline Co	08-30-89	B		
ST89-4598	ANR Pipeline Co	Coastal States Gas Transmission Co	08-30-89	B		
ST89-4599	ANR Pipeline Co	Coastal States Gas Transmission Co	08-30-89	B		
ST89-4600	Transcontinental Gas Pipe Line Corp	South Carolina Gas Pipeline Corp	08-30-89	B		
ST89-4601	Transcontinental Gas Pipe Line Corp	Bay State Gas Co	08-30-89	B		
ST89-4602	Transcontinental Gas Pipe Line Corp	Commonwealth Gas Co	08-30-89	B		
ST89-4603	Transcontinental Gas Pipe Line Corp	Consolidated Fuel Corp	08-30-89	G-S		
ST89-4604	Tennessee Gas Pipeline Co	North Penn Gas Co	08-30-89	B		
ST89-4605	Tennessee Gas Pipeline Co	North Penn Gas Co	08-30-89	B		
ST89-4606	Enogex Inc	Phillips Gas Pipeline Co	08-30-89	C	01-27-90	43.57
ST89-4607	United Gas Pipe Line Co	Oxy U.S.A., Inc	08-30-89	G-S		
ST89-4608	Natural Gas Pipeline Co. of America	Sonat Marketing Co	08-30-89	G-S		
ST89-4609	El Paso Natural Gas Co	Meridian Oil Hydrocarbons, Inc	08-31-89	B		
ST89-4610	El Paso Natural Gas Co	Meridian Oil Hydrocarbons, Inc	08-31-89	B		
ST89-4611	Enserch Gas Transmission Co	Tennessee Gas Pipeline Co	08-31-89	C		
ST89-4612	Black Marlin Pipeline Co	Conoco, Inc	08-31-89	K-S		
ST89-4613	Pacific Gas Transmission Co	Intermountain Gas Co	08-31-89	B		
ST89-4614	Pacific Gas Transmission Co	Washington Water Power Co	08-31-89	B		
ST89-4615	Pacific Gas Transmission Co	Pacific Gas and Electric Co	08-31-89	B		
ST89-4616	Pacific Gas Transmission Co	Pacific Gas and Electric Co	08-31-89	B		
ST89-4617	Transwestern Pipeline Co	Gas Co. or NM (Div. Public Serv. Co. NM)	08-31-89	B		
ST89-4618	Transwestern Pipleline Co	Pacific Gas and Electric Co	08-31-89	B		
ST89-4619	ANR Pipeline Co	Transco Energy Marketing Co	08-31-89	G-S		
ST89-4620	ANR Pipeline Co	Xebec Gas Co	08-31-89	G-S		
ST89-4621	ANR Pipeline Co	Coastal States Gas Transmission Co	08-31-89	B		
ST89-4622	ANR Pipeline Co	Odeco Oil Gas Co	08-31-89	G-S		
ST89-4623	ANR Pipeline Co	Xebec Gas Co	08-31-89	G-S		
ST89-4624	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of NY. Inc	08-31-89	B		
ST89-4625	Transcontinental Gas Pipe Line Corp	Union Gas Co	08-31-89	B		
ST89-4626	Transcontinental Gas Pipe Line Corp	Industrial Energy Services Co	08-31-89	G-S		
ST89-4627	Trans Texas Pipeline	Northern Natural Gas Co	08-31-89	C		
ST89-4628	Valero Transmission, L.P	Texas Eastern Transmission Corp	08-31-89	C		
ST89-4629	Southern Natural Gas Co	South Carolina Gas Pipeline Corp	08-31-89	B		
ST89-4630	Southern Natural Gas Co	Diamond Shamrock Offshore Partners L.P	08-31-89	G-S		
ST89-4631	Southern Natural Gas Co	Texican Natural Gas Co	08-31-89	G-S		
ST89-4632	Carnegie Natural Gas Co	Aristech Chemical Corp	08-31-89	G-S		
ST89-4633	Valero Transmission, L.P	Northern Natural Gas Co	08-31-89	C		
ST89-4634	Transok, Inc	Phillips Gas Pipeline Co	08-31-89	C	01-28-90	32.50
ST89-4635	Southern Natural Gas Co	Sonat Marketing Co	08-31-89	G-S		
ST89-4636	Southern Natural Gas Co	Gulf Ohio Corp	08-31-89	G-S		
ST89-4637	Southern Natural Gas Co	Phibro Distributions Corp	08-31-89	G-S		

[1] Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

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

[FR Doc. 89-23507 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP89-49-000]

Petition to Reopen and Vacate Final Well Category Determination

September 28, 1989.

In the matter of: New York State Department of Environmental Conservation section 108 NGPA Determination, National Fuel Gas Supply Corp.; Potter No. SC-419 Well, FERC No. JD 83-27247.

Take notice that on July 17, 1989, the New York State Department of Environmental Conservation (New York) filed with the Commission a letter from National Fuel Gas Supply Corporation (National Fuel) requesting withdrawal of New York's determination that the Potter No. SC-419 well located in Steuben County, New York, qualified as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and to permit National Fuel to withdraw its application for the determination.

In a letter dated August 16, 1989, National Fuel states that the production history which accompanied the section 108 filing with New York was incorrect and that the well produced in excess of 60 Mcf per day so that it did not qualify as a stripper well. National Fuel also submitted a refund report which indicates that on June 30, 1989, $515,906.55, consisting of $361,679.59 in principal and $154,226.96 in interest, was refunded to National Fuel, the purchaser.

Any person desiring to be heard or to protest in this proceeding should file a motion to intevene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23508 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-241-000]

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

September 28, 1989

Take notice that Algonquin Gas Transmission Company ("Algonquin") on September 25, 1989, tendered for filing, to its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets as listed in Appendix A, attached to the filing.

Algonquin states that it wishes to participate in Texas Eastern Transmission Corporation's ("Texas Eastern") Transportation Assignment Program ("TAP Program") as authorized by the Commission's Order Amending Blanket Certificate issued August 22, 1989 in Docket No. CP88-136-007

Algonquin states that it is filing new Rate Schedule ATAP and Form of Service Agreement applicable to Rate Schedule ATAP, to provide for the assignment by Algonquin, on either a firm or an interruptible basis, its firm transportation rights on Texas Eastern pipeline under Texas Eastern's Rate Schedule FT-1 ("FT-1 Service Rights").

Algonquin states that pursuant to the provisions of Rate Schedule ATAP, Rate Schedule ATAP will be available to any customer that has made an election to convert on a permanent basis from firm sales services under Rate Schedule F-1 and/or F-4 to firm transportation under Rate Schedule AFT-1 and/or has submitted a valid request pursuant to Section 3 of Rate Schedule ATAP which has been accepted by Algonquin.

Algonquin further states that pursuant to the provisions of Rate Schedule ATAP, Algonquin proposes to allow its AFT-1, and AIT-1 Shippers ("Assignees") to acquire, by means of assignment, Algonquin's FT-1 Service Rights on Texas Eastern's pipeline system under Algonquin's FT-1 Service Agreement with Texas Eastern. Algonquin states that Assignees must submit a request in writing ("Transportation Assignment Request") to Algonquin indicating their desire for such assignment of FT-1 Service Rights and their agreement to comply with the terms and conditions of Algonquin's Rate Schedule ATAP and Tesas Eastern's TAP Program. Under Algonquin's proposal, Assignees may reassign to subsequent parties ("Secondary Assignees") without limit to the number of reassignments, their rights under the Transportation Assignment Request to FT-1 Service Rights on Texas Eastern's pipeline system.

Algonquin states that pursuant to the terms and conditions of Rate Schedule ATAP as contained in Algonquin's instant filing, Algonquin will assign its FT-1 Service Rights on a "first-come, first-serve" basis. For the purposes of determining service on a "first-come, first-served" basis, all requests received within five (5) business days from the date that Algonquin announces that it is accepting requests for transportation assignment shall be deemed to have been received simultaneously.

Angonquin states that in order to implement Rate Schedule ATAP in time for the winter season it is requesting an effective date of November 1, 1989.

Algonquin notes that a copy of this filing was served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 5, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23509 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-243-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 28, 1989.

Take notice that ANR Pipeline Company (ANR) on September 26, 1989, tendered for filing the following tariff sheets to be included in its FERC Gas Tariff, Original Volume No. 1.

Original Sheet No. 90C
Original Sheet No. 90D
Original Sheet No. 90E
Original Sheet No. 122
Original Sheet No. 123

The proposed effective date of these tariff sheets is October 1, 1989.

ANR states that the purpose of this filing is to place tariff sheets into effect which establish the procedures pursuant to Order No. 500 through which ANR will recover from its sales customers the buyout buydown fixed charges which Northern Natural Gas Company bills to ANR under section 2.104 of the Commission's General Policy and Interpretations. In particular, this filing is being made pursuant to section 2.104(e) of the Commission's General Policy and Interpretations which permits downstream pipelines to flow through approved upstream pipeline buyout buydown costs to their customers on an "as billed" basis.

ANR states that copies of its filing were served on each of ANR's sales 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 NE., Washington, DC 20426, in accordance with sections 385.211, 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23510 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-217-004]

Hopewell Cogeneration Limited Partnership; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

September 28, 1989.

On September 15, 1989, Hopewell Cogeneration Limited Partnership (Applicant), of 1177 West Loop South, Suite 900, Houston, Texas 77207, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Hopewell, Virginia. The facility will consist of three combustion turbine generators, three heat recovery steam generators. Thermal energy recovered from the facility will be used by the Aqualon Company in its manufacturing operations and space heating. The net electric power production capacity will be 356.5 MW. The primary source of energy will be natural gas. The installation of the facility commenced in July 1988 with a scheduled date of completion during the first half of 1990.

The original application for certification was granted on March 30, 1987 (38 FERC ¶62,326). The current recertification is requested due to change in ownership structure. One of

the limited partners, Prince George Energy Company, is an indirect wholly owned subsidiary of SCECorp, an electric utility holding company.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determing the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23501 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-15-002]

Mid Louisiana Gas Co.; Filing

September 27, 1989.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on September 25, 1989 tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to become effective October 1, 1989:

	Superseding
First Substitute Seventieth Revised Sheet No. 3a.	Substitute Seventieth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing of First Substitute Seventieth Revised Sheet No. 3a is to correct a typographical error contained on Substitute Seventieth Revised Sheet No. 3a.

Mid Louisiana requests that First Substitute Seventieth Revised Tariff Sheet No. 3a be accepted and allowed to become effective October 1, 1989.

This filing is being made in accordance with Section 22 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such motions of protests should be filed on or before October 5, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23511 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-208-019, et al.]

Paiute Pipeline Co., et al.; Filing of Pipeline Refund Reports

September 28, 1989.

Take notice that the pipeline listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before October 20, 1989. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

Filing date	Company	Docket No.
11-9-88	Paiute Pipeline Company	RP88-208-019
8-15-89	Northwest Pipeline Corporation	RP72-154-020

[FR Doc. 89-23512 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-242-000]

Tennessee Gas Pipeline Co.; Filing

September 28, 1989.

Take notice on September 25, 1989, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets in Second Revised Volume No. 1 of its FERC Gas Tariff to be effective on October 25, 1989:

Second Revised Sheet No. 106
Substitute Second Revised Sheet No. 111
Substitute Original Revised Sheet No. 111A
Substitute Third Revised Sheet No. 114
Second Substitute Second Revised Sheet No. 205
Second Revised Sheet No. 208
First Revised Sheet No. 208A
First Revised Sheet No. 208B
Second Revised Sheet No. 247
Second Revised Sheet No. 249
Second Revised Sheet No. 252
Second Revised Sheet No. 339
Second Revised Sheet No. 347

Tennessee states that the purpose of this filing is (1) to correct certain minor errors in the tariff, (2) to update provisions in the tariff concerning notices and other filings made to Tennessee, (3) to amend the form pursuant to which shippers request transportation service on Tennessee, (4) to amend Tennessee's balancing and scheduling provisions, and (5) to establish throughput requirements associated with the operation of Tennessee's compression facilities.

Tennessee states that copies of its filing are available for inspection at its principal place of business in the Tenneco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.211 and 385.214). All such motions or protests should be filed on or before October 5, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-23513 Filed 10-4-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50696]

Receipt of a Notification Application To Do Field Testing Using a Non-Indiginous Mircoorganism

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received from NNP, Inc. a notification application requesting permission to do small-scale field testing using a non-indiginous isolate of *Mamestra brassica* Nuclear Polyhedrosis Virus (NPV). This virus occurs naturally in several countries, and has been isolated in Bulgaria, Czechoslovakia, China, France, Germany, Japan, the Netherlands, and the Soviet Union. This product is being evaluated to determine efficacy on soybeans, corn, tobacco, and cotton for control of a wide variety of insects. All crops will be destroyed after tests have been completed.

ADDRESS: By mail, submit written comments to:

Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Phil Hutton, Product Manager (PM) 17, Registration Division (H7503C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-2690)

SUPPLEMENTARY INFORMATION: EPA has received a notification for the purpose of using this strain of *Mamestra brassica* to evaluate the efficacy of the isolate, *Mamestra brassica* against the European corn borer in comparison to chemical pesticides. The material will be applied to less than 2 acres of corn in the State of Iowa. The application sites will be closely monitored to ensure that the product does not spread from the test sites. Long-term monitoring of the test site will be done to determine any persistence of this microorganism in the soil.

Following the review of this notification and any comments received in response to this notice, EPA will decide whether or not an experimental use permit is required and announce this decision in the **Federal Register.**

Dated: September 20, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-23441 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50695; RFL-3656-8]

Receipt of a Notification Application To Do Field Testing Using a Non-Indiginous Microorganism

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received from NNP, Inc. a notification application requesting permission to do small-scale field testing using a non-indiginous isolate of *Beauvaria bassiana*, which was orginally isolated in the "Le Vesdille" region of France. The proposed testing will be done on corn, cotton, soybeans, and tobacco for control of a wide variety of insects. All crops will be destroyed after tests have been completed.

ADDRESS: By mail, submit written comments to:

Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Rm. 246, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Phil Hutton, Product Manager (PM) 17, Registration Division (H7503C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 207, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-2690)

SUPPLEMENTARY INFORMATION: EPA has received a notification for the purpose of using this strain of *Beauvaria bassiana* to evaluate the efficacy of the isolate, *Beauvaria bassiana* (LX1147-04) against the European corn borer in comparison to chemical pesticides. The material will be applied to less than 2 acres of corn in the State of Iowa. The application sites will be closely monitored to ensure that the product does not spread from the test sites. Long-term monitoring of the test site will be done to determine any persistence of this microorganism in the soil.

Following the review of this notification and any comments received in response to this notice, EPA will decide whether or not an experimental use permit is required and announce this decision in the **Federal Register.**

Dated: September 20, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-23440 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30081C; FRL 3592-8]

Cypermethrin; Issuance of Conditional Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of conditional registration; request for comments.

SUMMARY: This notice announces the issuance, pursuant to section 3(c)(7)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), of new conditional registrations for products containing the synthetic pyrethroid cypermethrin for use on cotton, pecans, and head lettuce to control various insects. Previous conditional registrations for these pesticide products expired June 15, 1989. The Agency has determined that issuing these new conditional registrations would not cause a significant increase in the risk of unreasonable adverse effects on the environment during the term of conditional registration.

DATE: Comments must be received on or before November 6, 1989.

ADDRESS: Comments, identified by the document control number [OPP-30081C], should be submitted by mail to:

Public Docket and Freedom of Information Section, Field Operations Division (H7504C), Office of Pesticide Programs, Environmental Protection Agency 401 M Street SW., Washington, DC 20460

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by making any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of this comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm 246 at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

George T. LaRocca, Product Manager (PM) 15, Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2400)

SUPPLEMENTARY INFORMATION: In the Federal Register of January 9, 1985 (50 FR 1112), EPA announced its decision to grant ICI Americas, Inc. (ICI), and FMC Corp. (FMC) conditional registrations for products containing the synthetic pyrethroid active ingredient (±) *alpha*-cyano (3-phenoxopheny1) methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcylcopropanecarboxylate (cypermethrin) for use on cotton to control various cotton insects for a period which extended to December 31, 1986, to allow time for the submission and evaluation of a full field study (due in April 1986). That document set forth EPA's evaluation of other data that had been submitted, the product's regulatory history, and other facts about cypermethrin.

On June 12, 1985, and June 14, 1985, ICI and FMC, respectively, submitted letters to the Agency requesting an extension of time to April 15, 1988, for submittal of the field-monitoring study. Based upon the justification included in the request, the Agency extended the conditional registrations to December 31, 1988 (50 FR 39172).

On December 22, 1987, ICI, which was doing the study on behalf of both registrants, requested an administrative extension of 4 months for submission of this study in order to complete all of the biological and residue analysis necessary to prepare a final report. The Agency granted the extension for that short period of time to August 15, 1988, but retained the expiration date for the conditional registrations of December 31, 1988.

On August 23, 1988, ICI Americas, Inc., submitted the results of the cypermethrin Alabama field study. EPA reviewed the study and found that the data, as presented, were not scientifically adequate nor sufficiently complete to allow the Agency to evaluate the actual impact that the use of cypermethrin would have on aquatic life forms. The Agency's review of the data indicated that the deficiencies noted during the conduct of the study and in the results reported were serious enough to label the study as unacceptable. Both FMC and ICI disagreed with the Agency's conclusion and argued that the study was scientifically sound; however, not all data generated in the course of this study pertaining to runoff and residues in water and sediment had been submitted to the Agency. ICI and FMC stated that all information, including post-treatment year data from 1988, would be submitted in 1989 and indicated their belief that this additional information was necessary in order for the Agency to complete its risk assessment. On the basis of the above information, EPA seriously considered whether to issue new conditional registrations for cypermethrin. After much thought, on January 3, 1989, the Agency issued new conditional registrations of cypermethrin, which expired on June 15, 1989. (See the Federal Register of March 23, 1989 (54 FR 12010).)

The Agency issued these new conditional registrations for this short period of time to ICI and FMC in light of their agreement to:

1. Submit all data generated in the course of the cypermethrin Alabama pond study pertaining to runoff and residues in water and sediment to the Agency by January 15, 1989.

2. Submit all other data in existence and not previously submitted to the Agency, as well as all data generated in the future in the course of the cypermethrin Alabama pond study, as soon as possible.

3. Conduct an aquatic mesocosm study (a simulated 2-year field study) for which EPA would develop and provide the protocol no later than April 15, 1989, provided ICI/FMC could not persuade EPA that the cypermethrin pond study was acceptable.

4. Within 30 days of receipt of an EPA protocol for an aquatic mesocosm study, provide the Agency with written unconditional acceptance of the protocol and an unconditional commitment to conduct the study through completion. For any modificaiton of the proposal to be valid, it must be agreed to by EPA within the above mentioned 30-day period. The Agency reviewed the additional information on the pond study, reaffirmed its conclusion regarding the study's inadequacy, and determined that the aquatic mesocosm study would be necessary.

Following receipt of the EPA protocol on May 8, 1989, ICI/FMC provided EPA with written unconditional commitment to conduct the mesocosm study through completion and to follow the EPA protocol as written. After further discussion between EPA and ICI/FMC, a final version of the mesocosm protocol was issued to FMC and ICI on June 15, 1989.

Since FMC and ICI have met the conditions set forth in the January 3, 1989 Notice of Conditional Registration and a mesocosm study is still needed to complete a risk assessment and allow the Agency to evaluate the impact of use of cypermethrin on aquatic organisms, the Agency has decided to issue new conditional registrations for cypermethrin products for use on cotton, pecans and lettuce for such a period of time to allow for completion and Agency review of the mesocosm study. These conditional registrations will expire automatically on July 1, 1992, notwithstanding fulfillment of the mesocosm study. (Expiration of these conditional registrations will not give

rise to hearing rights pursuant to FIFRA section 6(e).)

As required by section 3(c)(7)(B) of FIFRA, EPA has concluded that the continual use of cypermethrin during the term of conditional registration will not cause a significant increase in the risk of adverse effects to the environment. Upon receipt and evaluation of any additional data relating to the cypermethrin pond study, the mesocosm study, and all other available relevant data, EPA will decide whether the products could be registered under FIFRA section 3(c)(5) or if other regulatory action is warranted.

In accordance with FIFRA section 3(c)(2), a copy of the approved label and the list of data references used to support the conditional registrations are available for public inspection in the office of the Product Manager listed under **"FOR FURTHER INFORMATION CONTACT."** The data and other scientific information used to support registration, except for the material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM#2, Arlington, VA 22202.

Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should identify the product name(s) and registration number(s) and specify the data or information desired.

Dated: September 1, 1989.

Edwin F. Tinsworth,

Acting Director, Office of Pesticide Programs.

[FR Doc. 89-23443 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180817; FRL 3656-6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 15 States and Puerto Rico listed below. Six crisis exemptions were initiated by various States, and one by the Wisconsin Department of Agriculture, Trade, and Consumer Protection for the month of May. These exemptions, issued during the month of June, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied an exemption request from the Washington Department of Agriculture. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail:

Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806)

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of bromoxynil on rice to control broadleaf weeds; June 13, 1989, to August 1, 1989. (Jim Tompkins)

2. Idaho Department of Agriculture for the use of fenbutatin-oxide on hops to control two-spotted spider mites; June 5, 1989, to September 15, 1989. (Gene Asbury)

3. Iowa Department of Agriculture for the use of sethoxydim on lima beans to control wild proso millet and shattercane; June 28, 1989, to August 31, 1989. (Susan Stanton)

4. Louisiana Department of Agriculture for the use of bromoxynil on rice to control broadleaf weeds; June 13, 1989, to August 1, 1989. (Jim Tompkins)

5. Michigan Department of Agriculture for the use cryolite on potatoes to control the Colorado potato beetle; June 12, 1989, to September 30, 1989. (Libby Pemberton)

6. Michigan Department of Agriculture for the use of metolachlor on onions to control yellow nutsedge and prostrate; June 8, 1989, to September 1, 1989. (Robert Forrest)

7. Michigan Department of Agriculture for the use of imazethapyr (Pursuit) on dry edible beans to control broadleaf weeds; June 23, 1989, to July 15, 1989. (Robert Forrest)

8. Mississippi Department of Agriculture for the use of bromoxynil on rice to control broadleaf weeds; June 13, 1989, to August 1, 1989. (Jim Tompkins)

9. Nebraska Department of Agriculture for the use of sethoxydim on dry edible beans to control wild proso millet; June 19, 1989, to July 20, 1989. (Susan Stanton)

10. Nevada Department of Agriculture for the use of cypermethrin on dry bulb onions to control onion thrips; June 30, 1989, to September 1, 1989. (Gene Asbury)

11. New Mexico Department of Agriculture for the use of sethoxydim on snap beans to control johnsongrass; June 19, 1989, to August 1, 1989. (Susan Stanton)

12. New York Department of Environmental Protection for the use vinclozolin on snap beans to control gray mold; June 15, 1989, to October 31, 1989. (Libby Pemberton)

13. Ohio Department of Agriculture for the use of chloramben on lettuce, endive, and escarole to control livid amaranth; June 14, 1989, to September 15, 1989. (Libby Pemberton)

14. Oregon Department of Agriculture for the use of vinclozolin on snap beans to control white and gray mold; June 15, 1989, to October 31, 1989. (Libby Pemberton)

15. Oregon Department of Agriculture for the use of permethrin on red raspberries to control root weevils; June 10, 1989, to August 10, 1989. (Susan Stanton)

16. Oregon Department of Agriculture for the use of fenbutatin-oxide on hops to control two-spotted spider mites; June 5, 1989, to September 15, 1989. (Gene Asbury)

17. Puerto Rico Department of Agriculture for the use of triadimefon on coffee to control coffee rust; June 12, 1989, to February 22, 1990. Puerto Rico had initiated a crisis exemption for this use. (Libby Pemberton)

18. Texas Department of Agriculture for the use of chlorothalonil on mushrooms to control verticillium diseases; June 19, 1989, to May 11, 1990. Texas had initiated a crisis exemption for this use. (Susan Stanton)

19. Washington Department of Agriculture for the use of permethrin on red raspberries to control root weevils; June 15, 1989, to August 10, 1989. (Susan Stanton)

20. Washington Department of Agriculture for the use of fenbutatin-oxide on hops to control two-spotted spider mites; June 5, 1989, to September 15, 1989. (Gene Asbury)

21. Washington Department of Agriculture for the use chlorpyrifos on wheat to control Russian wheat aphid; June 21, 1989, to December 31, 1989. (Robert Forrest)

22. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of cypermethrin on dry bulb onions to control onion thrips; June 30, 1989, to August 30, 1989. (Gene Asbury)

23. Wisconsin Department of Agriculture, Trade, and Consumer

Protection for the use of vinclozolin on snap beans to control white mold; June 15, 1989, to October 31, 1989. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. Louisiana Department of Agriculture and Forestry on June 23, 1989, for the use of sodium chlorate on wheat to control weeds. This program has ended. (Susan Stanton)

2. Michigan Department of Agriculture on June 19, 1989, for the use of benomyl on field corn grown for seed to control anthracnose. This program has ended. (Libby Pemberton)

3. Minnesota Department of Agriculture on June 12, 1989, for the use of fenvalerate on small grains to control grasshoppers. Since it was anticipated that this program would be needed for more than 15 days, Minnesota is expected to request a specific exemption to continue it. (Libby Pemberton)

4. Mississippi Department of Agriculture and Commerce on June 1, 1989, for the use of sodium chlorate on wheat to control weeds. This program has ended. (Susan Stanton)

5. Texas Department of Agriculture on June 30, 1989, for the use of iprodione on rice to control sheath blight. This program has ended. (Libby Pemberton)

6. Texas Department of Agriculture on June 29, 1989, for the use of fenvalerate on sorghum to control sorghum headworms and sorghum midge. Since it was anticipated that this program would be needed for more than 15 days, Texas is expected to request a specific exemption to continue it. (Libby Pemberton)

7. Wisconsin Department of Agriculture, Trade, and Consumer Protection on May 27, 1989, for the use of sethoxydim on peas to control annual and perennial grasses. This program has ended. (Susan Stanton)

EPA has denied a specific exemption request from the Washington Department of Agriculture on June 12, 1989, for the use of glyphosate on wheat to control volunteer rye. The Agency has denied the request because of the lack of progress toward registration of the proposed use. (Susan Stanton)

Authority: 7 U.S.C. 136.

Dated: September 7, 1989.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 89-23444 Filed 10-4-89; 8:45 am]

BILLING CODE 6510-50

Office of Pesticides and Toxic Substances

[OPP-180819; FRL-36564]

Receipt of Application for Emergency Exemption To Use Hydrogen Cyanamide; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a request for an emergency exemption from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use the active ingredient hydrogen cyanamide (Dormex) to promote uniform bud break in 19,100 acres of table grapes grown in Coachella Valley and 800 acres of table grapes grown in the Cadiz Valley. Dormex contains an unregistered active ingredient and, therefore, in accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant the exemption.

DATE: Comments must be received on or before October 20, 1989.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180819," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Room 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Room 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-1806.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of an unregistered plant regulator, hydrogen cyanamide (CAS 420-04-2), manufactured as Dormex, by SKW Trostberg Aktiengesellschaft, to promote uniform bud-break in table grapes grown in the Coachella Valley and Cadiz Valley, California. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Approximately 19,900 acres of table grapes, *Vitis* spp., are grown in the two valleys. The Applicant indicates that California growers of early market table grapes are facing economic losses due to increasing competition from foreign imports, particularly from Mexico. The Applicant states that table grapes grown in the two valleys may not experience adequate winter chilling to promote uniform bud-break and fruit ripening in the spring. As a result, cane growth can be delayed and uneven, causing the harvest to be late and allowing foreign competition to dominate the market. Currently there are no registered materials to promote uniform bud-break in grapes.

Dormex will be applied by ground at a maximum rate of 4 gallons (16 pounds active ingredient) per acre. Application will be made once in dormancy after pruning sometime between December 1 and February 15, 1990, to approximately 19,900 acres of table grapes.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the

California Department of Food and Agriculture.

Dated: September 18, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-23445 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240086; FRL 3656-7]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 33 States and Puerto Rico. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Owen F. Beeder, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460.

Office location and telephone number: Rm. 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-7893.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in May through July of 1989. Receipts of State registrations, will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 89 0007. Chevron Chemical Co., c/o Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on tomatoes to control western flower thrips. June 13, 1989.

EPA SLN No. AL 89 0008. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on tomatoes to control western flower thrips. June 13, 1989.

Arizona

EPA SLN No. AZ 89 0014. Snowden Enterprises, Inc. Registration is for The Fruit Doctor to be used on grapes in cold storage to control grey mold. October 3, 1989.

EPA SLN No. AZ 89 0015. Gowen Co. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. June 30, 1989.

EPA SLN No. AZ 89 0016. Gowen Co. Registration is for Prokil Methyl Parathion 6-3E to be used on Chinese cabbage to control aphids. June 30, 1989.

Arkansas

EPA SLN No. AR 89 0008. Valent U.S.A. Corp. Registration is for Orthene 90 S to be used on cotton to control flea hoppers and plant bugs. June 6, 1989.

EPA SLN No. AR 89 0009. ICI Americas, Inc. Registration is for Reflex 2 LC Herbicide to be used on soybeans to control broadleaf weeds. June 9, 1989.

California

EPA SLN No. CA 89 0015. Monrovia Nursey Co. Registration is for Chipco Ronstar G to be used on ornamentals not listed on the Federal label. March 10, 1989.

EPA SLN No. CA 89 0032. Bear Creek Production Co. Registration is for Dithane F-45 to be used on roses to control downy mildew, blackspot and rust. May 3, 1989.

EPA SLN No. CA 89 0033. Sun World International. Registration is for Clean Crop Dimethoate 267 Systemic Insecticide to be used on nonbearing mango trees to control citrus thrips. April 28, 1989.

EPA SLN No. CA 89 0035. Robert E. Jones. Registration is for Metasystox-R to be used on Christmas trees to control balsam twig aphids. May 10, 1989.

EPA SLN No. CA 89 0036. Microbio Resources, Inc. Registration is for Pyrellin E.C. to be used on microalgae to control protozoa. May 8, 1989.

EPA SLN No. CA 89 0038. Natures Harvest. Registration is for Metasystox-R Spray Concentrate to be used on flowers grown for dried flowers to control aphids, leafminers, white flies, mites, and leafhoppers. June 6, 1989.

EPA SLN No. CA 89 0039. Desert Ag Services. Registration is for Kelthane MF Agricultural Miticide to be used on jojoba grown for seed wax to control two-spotted spider mites. June 13, 1989.

EPA SLN No. CA 89 0040. University of California Cooperative Extension, Kern County. Registration is for Nemacur 3 to be used on apples to control nematodes. June 15, 1989.

Colorado

EPA SLN No. CO 89 0001. FMC Corp., Agricultural Chemical Group. Registration is for Furadan 4F to be used on winter wheat to control grasshoppers. April 4, 1989.

EPA SLN No. CO 89 0002. E.I. du Pont de Nemours & Co., Inc. Registration is for Du Pont Glean Herbicide to be used on permanent grass stands to control several weeds. April 4, 1989.

EPA SLN No. CO 89 0003. Fermenta Plant Protection Co. Registration is for Dacthal W-75 to be used on alfalfa grown only for seed to control dodder. April 4, 1989.

EPA SLN No. CO 89 0004. Scentry, Inc. Registration is for Tra-Kill Tracheal Mite Killer to be used on over-wintering honey bee hives to control tracheal mites. April 14, 1989.

EPA SLN No. CO 89 0005. E.I. du Pont de Nemours & Co., Inc. Registration is for DuPont Ally Herbicide to be used on preharvest grain treatment to control several weeds. June 1, 1989.

Delaware

EPA SLN No. DE 89 0002. Agricultural Division, Ciba-Geigy Corp. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. March 21, 1989.

EPA SLN No. DE 89 0003. Valent U.S.A. Corp. Registration is for Cobra Herbicide to be used on soybeans to control several broadleaf weeds. June 28, 1989.

Georgia

EPA SLN No. GA 89 0003. Uniroyal Chemical Co. Registration is for Terracolor 10% Granular to be used on peanuts to control foot and stem rot. July 6, 1989.

EPA SLN No. GA 89 0004. Griffin Corp. Registration is for Kocide 101 to be used on pecans to control shuck and kernel rot and zonate leafspot. July 10, 1989.

Idaho

EPA SLN No. ID 89 0005. Ciba-Geigy Corp., Agricultural Div. Registration is for Ridomil 2E to be used on hops to control downy mildew. June 16, 1989.

Illinois

EPA SLN No. IL 89 0003. ICI Americas, Inc. Registration is for Ambush Insecticide to be used on collards and turnips to control cabbage loopers, cabbage worms, diamondback moth, and cabbage aphids. June 9, 1989.

Indiana

EPA SLN No. IN 89 0001. Ciba-Geigy Corp., Agricultural Div. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. April 1, 1989.

EPA SLN No. IN 89 0002. Ciba-Geigy Corp., Agricultural Div. Registration is for Tilt Fungicide to be used on corn grown for seed to control Southern corn leaf blight. June 22, 1989.

EPA SLN No. IN 89 0003. FMC Corp., Agricultural Chemical Co. Registration is for Thiodan 3 EC Insecticide to be used on rape-seed to control several insect pests. July 17, 1989.

Louisiana

EPA SLN No. LA 89 0006. ICI Americas, Inc., Agricultural Products Div. Registration is for Fusilade 2000 Herbicide to be used on soybeans and cotton grown adjacent to sugarcane fields to control several weeds. May 4, 1989.

EPA SLN No. LA 89 0008. ICI Americas, Inc. Registration is for Reflex 2LC Herbicide to be used on soybeans to control several broadleaf weeds. May 31, 1989.

EPA SLN No. LA 89 0009. E.I. Du Pont de Nemours & Co., Inc. Registration is for Velpar Herbicide to be used on Bermudagrass to control smutgrass. June 12, 1989.

EPA SLN No. LA 89 0010. E.I. Du Pont de Nemours & Co., Inc. Registration is for Velpar L Herbicide to be used on Bermudagrass to control smutgrass. June 12, 1989.

EPA SLN No. LA 89 0011. FMC Corp., Agricultural Chemicals Group. Registration is for Ammo-Methyl 1 Parathion EC to be used on cotton to control several insect pests. July 12, 1989.

EPA SLN No. LA 89 0012. Rhone Poulenc Ag Co. Registration is for Rovral 4 Flowable to be used on rice to control sheath blight. July 21, 1989.

Maine

EPA SLN No. ME 89 0001. Rhone Poulenc Ag Co. Registration is for Asulox Herbicide to be used on nonbearing lowbush blue-berries to control bracken fern. June 19, 1989

Michigan

EPA SLN No. MI 89 0005. Platte Chemical Co. Registration is for Clean Crop Cucurbit EC Herbicide to be used on cucumbers, melons, and watermelons to control certain annual grasses and broadleaf weeds. April 21, 1989.

EPA SLN No. MI 89 0006. Fermenta Plant Protection Co. Registration is for Bravo C/M to be used on celery, carrots, and potatoes to control late blight and bacterial blight. July 7, 1989.

Mississippi

EPA SLN No. MS 89 0007. Fairfield American Corp. Registration is for Permanone 10% EC to be used on various indoor and outdoor areas to control mosquitoes, wasps, gnats, and skippers. May 9, 1989.

EPA SLN No. MS 89 0008. ICI Americas, Inc. Registration is for Reflex 2 LC Herbicide to be used on soybeans to control broadleaf weeds. May 12, 1989.

EPA SLN No. MS 89 0009. Ciba-Geigy Corp., Agricultural Div. Registration is for Cotoran DF to be used on cotton to control several broadleaf weeds. May 16, 1989.

EPA SLN No. MS 89 0010. Ciba-Geigy Corp., Agricultural Div. Registration is for Cotoran 4L to be used on cotton to control several broadleaf weeds. May 10, 1989.

EPA SLN No. MS 89 0011. Valent U.S.A. Corp. Registration is for Orthene Turf, Tree & Ornamental to be used on turf, trees, and ornamental plants to control imported fire ants. May 22, 1989.

EPA SLN No. MS 89 0012. Universal Cooperatives, Inc. Registration is for DSMA Liquid Herbicide to be used on cotton to control several weeds. July 14, 1989.

EPA SLN No. MS 89 0013. Universal Cooperatives, Inc. Registration is for MSMA Liquid Herbicide to be used on cotton to control several weeds. July 14, 1989.

EPA SLN No. MS 89 0014. Universal Cooperatives, Inc. Registration is for MSMA Liquid Herbicide to be used on cotton to control several weeds. July 14, 1989.

EPA SLN No. MS 89 0016. ICI Americas, Inc. Registration is for Karate Insecticide to be used on cotton to control several insect pests. July 20, 1989.

Missouri

EPA SLN No. MO 89 0005. ICI Americas, Inc. Registration is for Ordram 15G Herbicide to be used for preplant use on rice to control several grasses and weeds. April 21, 1989.

EPA SLN No. MO 89 0006. Valent U.S.A. Corp. Registration is for Cobra Herbicide to be used on soybeans for preemergent control of annual grass and broadleaf weeds. June 7, 1989.

EPA SLN No. MO 89 0007. Ciba-Geigy Corp., Agricultural Div. Registration is for Tilt Fungicide to be used on corn grown for seed to control southern corn leaf blight. June 7, 1989.

Montana

EPA SLN No. MT 89 0010. Uniroyal Chemical Corp. Registration is for Comite® to be used on alfalfa grown for seed to control two-spotted spider mite complex. June 5, 1989.

Nebraska

EPA SLN No. NE 89 0006. Dow Chemical Co. Registration is for Tordon 22K Weed Killer to be used for rangeland and permanent grass pastures to control several weeds. April 19, 1989.

Nevada

EPA SLN No. NV 89 0003. FMC Corp. Registration is for Capture 2EC Insecticide/Miticide to be used on seed alfalfa to control lygus bugs and spider mites. May 4, 1989.

New Jersey

EPA SLN No. NJ 89 0005. Fairfield American Corp. Registration is for Rotacide EC to be used on vegetables and ornamentals, forest and shade, fruit and nut trees to control several insect pests. May 5, 1989.

EPA SLN No. NJ 89 0007. FMC Corp., Agricultural Chem. Div. Registration is for Command 4 EC Herbicide to be used for preemergence application to peas to control several grasses and broad-leaf weeds. May 9, 1989.

EPA SLN No. NJ 89 0008. Mobay Corp. Registration is for Guthion 35% WP Crop Insecticide to be used on parsley to control carrot weevils. May 12, 1989.

EPA SLN No. NJ 89 0009. FMC Corp., Agricultural Chem. Div. Registration is for Command 4 EC Herbicide to be used for preemergence application to soybeans to control several grasses and weeds. June 2, 1989.

New Mexico

EPA SLN No. NM 89 0002. Bureau of Pesticide Management, New Mexico Dept. of Agriculture. Registration is for Treflan EC to be used for postemergence application to chile peppers to control several weeds. May 24, 1989.

EPA SLN No. NM 89 0003. Bureau of Pesticide Management, New Mexico Dept. of Agriculture. Registration is for Treflan MTF to be used for postemergency application to chile

peppers to control several weeds. May 24, 1989.

EPA SLN No. NM 89 0004. Bureau of Pesticide Management, New Mexico Dept. of Agriculture. Registration is for Treflan 5 to be used for postemergence application to chile peppers to control several weeds. May 24, 1989.

North Carolina

EPA SLN No. NC 89 0006. Ciba-Geigy Corp., Agricultural Div. Registration is for Tilt Fungicide to be used on wheat, barley, and rye to control rusts, powdery mildew, leaf blight, and glume blotch. April 26, 1989.

EPA SLN No. NC 89 0007. Mobay Corp., Agricultural Chemicals Div. Registration is for Monitor 4 to be used on tomatoes to control several pests. May 2, 1989.

EPA SLN No. NC 89 0008. ICI Americas, Inc. Registration is for Karate Insecticide to be used on tobacco breeding plots and seed nurseries to control tobacco budworms. June 23, 1989.

EPA SLN No. NC 89 0009. Valent U.S.A. Corp. Registration is for Orthene 75 S Soluble Powder to be used on corn to control corn leaf aphids. June 27, 1989.

North Dakota

EPA SLN No. ND 89 0001. Sandoz Crop Protection Corp. Registration is for Banvel Herbicide to be used on preharvest wheat to control several weeds. July 25, 1989.

Ohio

EPA SLN No. OH 89 0005. Rhone Poulenc Ag Co. Registration is for Larvin 3.2 Thiodicarb Insecticide to be used on sweet corn to control armyworms, corn earworms, and European corn borers. April 28, 1989.

EPA SLN No. OH 89 0006. FMC Corp., Agricultural Chemicals Group. Registration is for Thiodan 3 EC Insecticide to be used on rapeseed to control aphids, mites, and several pests. May 19, 1989.

Oklahoma

EPA SLN No. OK 89 0001. ICI Americas, Agricultural Products Div. Registration is for Karate Insecticide to be used on cotton to control several insect pests. May 3, 1989.

EPA SLN No. OK 89 0002. Valent U.S.A. Corp. Registration is for Orthene 90 S to be used on cotton to control fleahoppers, plantbugs, and thrips. May 15, 1989.

Oregon

EPA SLN No. OR 89 0003. Charles H. Lilly Co. Registration is for Lilly/Miller Rotefive to be used on apples and pears to control maggots, psylla, and codling moths. April 24, 1989.

EPA SLN No. OR 89 0004. Mobay Corp., Agricultural Chemicals Div. Registration is for Metasystox-R Spray Concentrate to be used on field-grown nursery stock to control aphids, mites, and scale. April 28, 1989.

EPA SLN No. OR 89 0005. Platte Chemical Co. Registration is for Clean Crop Phorate 20G to be used on potatoes to control several insect pests. April 16, 1989.

EPA SLN No. OR 89 0006. American Cyanamid Co. Registration is for Arsenal Herbicide Applicators Concentrate to be used on forestry land to control bigleaf maple and red alder. May 16, 1989.

EPA SLN No. OR 89 0007. Platte Chemical Co. Registration is for Clean Crop Sclerban 75 WDG to be used on potatoes to control white mold. May 16, 1989.

EPA SLN No. OR 89 0008. Ciba-Geigy Corp., Agricultural Div. Registration is for Ridomil 2E to be used on hops to control downy mildew. June 1, 1989.

EPA SLN No. OR 89 0009. E.I. du Pont de Nemours & Co. Registration is for Du Pont Asana XL Insecticide 0.66EC to be used on caneberries and raspberries to control aphids and several other pests. July 6, 1989.

EPA SLN No. OR 89 0010. Flora & Fauna Labs, Inc. Registration is for Deer-Away Big Game Repellent Powder BGR-P to be used on young Douglas-fir seedlings to control mountain beavers. July 7, 1989.

Pennsylvania

EPA SLN No. PA 89 0004. FMC Corp., Agricultural Chemicals Group. Registration is for Talstar 10 WP to be used on ornamental trees, shrubs, plants, and flowers to control several insect pests. May 8, 1989.

EPA SLN No. PA 89 0005. FMC Corp., Agricultural Chemicals Group. Registration is for Command 4 EC Herbicide to be used on soybeans for postemergence weed control. May 8, 1989.

EPA SLN No. PA 89 0006. Valent U.S.A. Corp. Registration is for Cobra Herbicide to be used on soybeans to control several weeds. June 20, 1989.

Puerto Rico

EPA SLN No. PR 89 0001. Ochoa Fertilizer Co., Inc. Registration is for Temik 10G to be used on bananas and plantains to control nematodes and banana corn weevils. June 9, 1989.

South Dakota

EPA SLN No. SD 89 0004. FMC Corp. Registration is for Furadan 4F Insecticide to be used on wheat, oats, and barley to control grasshoppers. June 30, 1989.

Tennessee

EPA SLN No. TN 89 0003. Vanderbilt University. Registration is for DRC-1339 (Starlicide) to be used on outside locations at a power plant and football stadium to control pigeons. May 4, 1989.

EPA SLN No. TN 89 0004. Van Waters & Rogers, Inc. Registration is for Van Waters & Rogers Standard 2,4-D Amine to be used on ponds, lakes, reservoirs, etc. to control water hyacinth. May 8, 1989.

EPA SLN No. TN 89 0005. USDA, APHIS, Animal Damage Control. Registration is for DRC-1339 (Starlicide) to be used on outside locations not readily used by children, pets, and/or domestic animals to control feral pigeons and common crows. May 24, 1989.

EPA SLN No. TN. 89 0006. Red Panther Chemical Co. Registration is for Red Panther DSMA Special to be used on cotton to control several weeds. June 27, 1989.

Texas

EPA SLN No. TX 89 0004. ICI Americas, Inc., Agricultural Products. Registration is for Karate Insecticide to be used on cotton to control several insect pests. May 2, 1989.

EPA SLN No. TX 89 0005. Fairfield American Corp. Registration is for PyraPerm 455 Dust to be used on rodent burrows to control fleas that otherwise serve as vectors of the bubonic plague from rodents to humans. June 12, 1989.

EPA SLN No. TX 89 0006. Bell Laboratories, Inc. Registration is for Quintox Rat and Mouse Bait to be used on homes and industrial and commercial buildings to control rats and mice. July 7, 1989.

EPA SLN No. TX 89 0007. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on peppers to control aphids, leafminers, thrips, and flea beetles. July 12, 1989.

EPA SLN No. TX 89 0008. Valent U.S.A. Corp. Registration is for Monitor 4 Spray to be used on peppers to control aphids, leafminers, thrips, and flea beetles. July 12, 1989.

Utah

EPA SLN No. UT 89 0001. Mobay Corp., Agricultural Chemicals Div. Registration is for Di-Syston 15% Granular to be used on wheat and barley to control several pests. April 17, 1989.

Virginia

EPA SLN No. VA 89 0004. Valent U.S.A. Corp. Registration is for Cobra Herbicide to be used on soybeans to control several weeds. July 12, 1989.

EPA SLN No. Va 89 0005. Rhom and Haas. Registration is for Kelthane 35 Agricultural Miticide to be used on raspberries and blackberries to control mites. July 12, 1989.

Washington

EPA SLN No. WA 89 0009. Union Oil Co. of California. Registration is for Enquick to be used on canebarries to control primocanes. May 3, 1989.

EPA SLN No. WA 89 0010. FMC Corp., Agricultural Chemicals Group. Registration is for Capture 2EC Insecticide/Miticide to be used on alfalfa seed to control lygus bugs, weevils, aphids, and spider mites. May 3, 1989.

EPA SLN No. WA 89 0011. Drexel Chemical Co. Registration is for Drexel Diuron 4L to be used on perennial bluegrass grown for seed to control several broadleaf weeds. May 10, 1989.

EPA SLN No. WA 89 0012. Tri-River Chemical, Inc. Registration is for 2,4-DB 175 to be used on radishes grown for seed to control various weeds. May 18, 1989.

EPA SLN No. WA 89 0013. American Cyanamid Co. Registration is for Arsenal herbicide Applicators Concentrate to be used on forestry land to control bigleaf maple and red alder. May 26, 1989.

EPA SLN No. WA 89 0014. Webb Wright Corp. Registration is for Pyrellin EC to be used on spinach, lettuce, turnips, beans, and peas to control aphids, white flies, and several pests. June 6, 1989.

EPA SLN No. WA 89 0015. Ciba-Beigy Corp., Agricultural Div. Registration is for Ridomil 2E to be used on hops to control downy mildew. June 6, 1989.

EPA SLN No. WA 89 0016. Platte Chemical Co., Inc. Registration is for Clean Crop Dimethoate 400 to be used on lentils to control aphids and lygus. June 7, 1989.

EPA SLN No. WA 89 0017. Platte Chemical Co., Inc. Registration is for Clean Crop Sclerban 75 WDG to be used on potatoes to control white mold. June 12, 1989.

EPA SLN No. WA 89 0018. Wilbur Ellis Co. Registration is for Wilbur-Ellis Sulfur DF to be used on spearmint to control powdery mildew. July 7, 1989.

EPA SLN No. WA 89 0019. Valent U.S.A. Corp. Registration is for Dibrom 8 Emulsive to be used on alfalfa grown for seed to control lygus and thrips. June 22, 1989.

Wyoming

EPA SLN No. WY 89 0001. Fairfield American Corp. Registration is for PyraPerm 455 Dut to be used on ground squirrels, tree squirrels, chipmunks, and wild and domesticated rats, and mice to control fleas and other ectoparasites. May 31, 1989.

(Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136).)

Dated: September 12, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-23446 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

[PF-523; FRL 3656-2]

Pesticide Tolerance Petitions; Amendment and Withdrawals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces an amendment to pesticide petition (PP) 7F3516 by the Rhone Poulenc Ag Co. and the withdrawal of PP 8F3657 and food additive petition (FAP) 8H5560 by the Ciba-Geigy Corp.

ADDRESS: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H-7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holiday.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Attention: Product Manager (PM) named in the petition, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards (PM 12).	Rm. 202, CM #2, 703-557-4416.	1921 Jefferson Davis Hwy., Arlington, VA.
Susan Lewis (Acting PM 21).	Rm. 227, CM #2, 703-557-1900.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions and a food additive petition as follows, proposing an amendment and two withdrawals of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

Amended Petition

1. *PP 7F3516.* EPA has received from the Rhone Poulenc Ag Co., TW Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709, an amendment to PP 7F3516, which proposed to amend 40 CFR 180.407 by proposing to establish a regulation to permit combined residues of the insecticides thiodicarb (dimethyl *N,N*-[thiobis[[(methylimino)carbonyl]oxy]bis[ethan-imidothioate]) in or on leafy vegetables at 30.0 parts per million (ppm). Notice of this petition was published in the FEDERAL REGISTER of May 13, 1987 (52 FR 18019). Rhone Poulenc Ag Co. has amended the petition to request an increase from 30 to 35 ppm for the insecticide on the commodity. The proposed analytical method for determining residues is liquid gas chromatography. (PM 12)

Withdrawn Petitions

1. *PP 8F3657.* Ciba-Geigy Corp., P.O. Box 18300, Greenboro, NC 27419, filed PP 8F3657, notice of which was published in the FEDERAL REGISTER of October 12, 1988 (53 FR 39784), for the fungicide [R,S]-1-[2-(2,4-dichlorophenyl)-n-pentyl]-1H-1,2-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on apples at 0.5 ppm; eggs at 0.1 ppm; grapes at 1 ppm; kidney and liver of cattle, goats, hogs, horses, and sheep at 1 ppm; and meat, fat, and meat byproducts, excluding kidney and liver, of cattle, goats, hogs, horses, and sheep and meat, fat, and meat byproducts of poultry at 0.1 ppm; and milk at 0.1 ppm. This notice announces that the petitioner has withdrawn the petition without prejudice. (PM 21)

2. *FAP 8H5560.* Ciba-Geigy Corp. filed FAP 8H5560, notice of which was published in the **Federal Register** of October 12, 1988 (53 FR 39785), for the fungicide described in paragraph 1. above, in or on raisins at 5 ppm, apple pomace (dried) at 3 ppm, grape pomace (dried) at 16 ppm, grape pomace (wet) at 5 ppm, and raisin waste at 20 ppm. This notice announces that the petitioner has withdrawn the petition without prejudice. (PM 21)

Authority: 7 U.S.C. 136a.

Dated: August 3, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-23442 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G3263/T585; FRL 36563]

Oxyfluorfen; Renewal of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary tolerance for residues of the herbicide oxyfluorfen and its metabolites in or on the raw agricultural commodity alfalfa at 0.1 part per million (ppm).

DATE: This temporary tolerance expires December 31, 1989.

FOR FURTHER INFORMATION CONTACT:

By mail: JoAnne Miller, Acting Product Manager (PM) 23, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557-1830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 30, 1987 (52 FR 49200), stating that a temporary tolerance had been extended for residues of the herbicide oxyfluorfen, 2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene, and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodity alfalfa at 0.1 part per million (ppm). This tolerance is renewed in response to pesticide petition (PP) 5G3263, submitted by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105.

The company has requested a 1-year renewal of a temporary tolerance for residues of the herbicide to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 707-EUP-110, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1989. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: September 23, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-23447 Filed 10-4-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Petition No. P6-89]

Motor Vehicle Manufacturers Association of the United States, Inc.; Application for Exemption of Vehicle Shipments From Portions of the Shipping Act of 1984; Filing

September 29, 1989.

Notice is hereby given that the Motor Vehicle Manufacturers Association of the United States, Inc. ("Petitioner") has applied for exemption pursuant to section 16 of the Shipping Act of 1984 ("the Act"), 46 U.S.C. app. 1715. Petitioner seeks an order from the Federal Maritime Commission exempting the carriage of motorized vehicles in lots of more than 50 vehicles per sailing, or moving under contracts of more than 300 vehicles in a three-month period, from section 8 and 10(b) (1)-(4), (6), and (10)-(12) of the Act, 46 U.S.C. app. 1707, 1709(b) (1)-(4), (6), and (10)-(12). Thus, the exemption would remove such motorized vehicle shipments from the tariff and service contract provisions of the Act, as well as related prohibited acts provisions of the Act.

Interested persons are requested to submit views or arguments on the application no later than November 17, 1989. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 in an original and 15 copies. Responses shall also be served on counsel for Petitioner: Robert N. Kharasch, Esq., David P. Street, Esq., Galland, Kharasch, Morse & Garfinkle, P.C., 1054 Thirty-First Street, NW., Washington, DC 2007.

Copies of the application are available for examination at the Washington, DC, office of the Commission, 1100 L Street, NW., Room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 89-23555 Filed 10-4-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 28, 1989.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collection of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and approved collection of information instrument(s) will be placed into OMB's public docket files. The following report, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within ten working days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 and 5:15 p.m. except as provided in § 261(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB Desk Officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the request for clearance (SF 83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal to approve under OMB delegated authority the implementation of the following report

Report title: Survey of Currency Handling Practices of Depository Institutions.

Agency form number: FR 3060.

OMB Docket number: 7100-0241.

Frequency: One-time.

Reporters: Commercial banks, savings and loan associations, and credit unions in the U.S.

Annual reporting hours: 1384.

Estimated average hours per response: 1.5.

Number of respondents: 923.

Small businesses are affected.

General description of report:

This survey will provide a general assessment of the costs incurred by depository institutions in the handling of United States paper currency, with particular attention to the effects of currency quality on handling costs. This survey will also determine the probable effects on depository institution currency handling costs that would be associated with changes in the quality of currency paid out by the Federal Reserve System.

Board of Governors of the Federal Reserve System, September 28, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-23548 Filed 10-4-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 18, 1989.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Duane S. Amundson* and E.J. Amundson, Henning, Minnesota; to acquire an additional 5.19 percent of the voting shares of Culbertson Ban Corp, Culbertson, Montana, and thereby indirectly acquire Culbertson State Bank, Culbertson, Montana.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Everett L. Mangum,* South Laguna, California; to acquire an additional 10.02 percent of the voting shares of Monarch Bancorp, Laguna Niguel, California, and thereby indirectly acquire Monarch Bank, Laguna Niguel, California.

Board of Governors of the Federal Reserve System, September 29, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-23550 Filed 10-4-89; 8:45 am]

BILLING CODE 6210-01-M

Financial Institutions, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 C.F.R. 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 26, 1989.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33

Liberty Street, New York, New York 10045:

1. *Financial Institutions, Inc.*, Warsaw, New York; to acquire 100 percent of the voting shares of Salamanca Trust Company, Salamanca, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Barnett Banks, Inc.*, Jacksonville, Florida; First City Bancorp, Inc., Marietta, Georgia; and Suncoast Bancorp, Inc., Vero Beach, Florida; to acquire 100 percent of the voting shares of Barnett Bank of Southwest Georgia, Columbus, Georgia, a *de novo* bank. Barnett proposes to convert the charter of Barnett Federal Savings Bank, Columbus, Georgia, to that of a state-chartered commercial bank to be named Barnett Bank of Southwest Georgia, Columbus, Georgia.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Exchange Corp.*, Cape Girardeau, Missouri; to acquire 100 percent of the voting shares of First Exchange Bank of North St. Louis County, Florissant, Missouri, a *de novo* bank.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *American State Financial Corporation of Delaware*, Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Brownfield State Bank, Brownfield, Texas; American State Bank, Lubbock, Texas; Liberty State Bank, Lubbock, Texas; and American State Bank of Snyder, Snyder, Texas.

Board of Governors of the Federal Reserve System, September 29, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-23551 Filed 10-4-89; 8:45 am]

BILLING CODE 6210-01-M

Chemical Banking Corp.; New York, N.Y.; Proposal To Conduct Private Placements as Agent of All Types of Securities and Engage in Full Service Brokerage Activities and Providing Financial Advisory Services

Chemical Banking Corporation, New York, New York ("Chemical"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.23(a)(3) of the Board's Regulation Y (12 C.F.R. 225.23(a)(3)), for permission to engage through its wholly owned subsidiary, Chemical Securities, Inc., New York, New York ("Company"), in the placement, as agent for issuers, of all types of securities, providing investment advisory and brokerage services on a combined basis, and providing financial advisory services.

Chemical is currently authorized to engage indirectly in providing discount brokerage and investment and financial advisory services, as well as underwrite and deal in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks are authorized to underwrite and deal in under 12 U.S.C. §§ 24 and 335. Chemical is also authorized to engage through Company in underwriting and dealing to a limited extent in commercial paper, residential mortgage-backed securities, municipal revenue bonds and consumer receivable-related securities.

Chemical proposes to provide investment advisory and brokerage services on a combined basis subject to all of the conditions of 12 CFR 225.25(b)(15), Bank of New England Corporation, 74 Federal Reserve Bulletin 700 (1988), and PNC Financial Corp, 75 Federal Reserve Bulletin 396 (1989), including brokering and recommending to institutional customers securities in which Company has a principal's position as permitted in Bankers Trust New York Corporation, 74 Federal Reserve Bulletin 695 (1988).

Chemical also proposes that Company will provide financial advisory services including: (i) Providing advice regarding the structuring of, and arranging loan syndications and similar transactions; (ii) providing advice regarding the structuring of, and arranging, "swaps", "caps", and similar transactions relating to factors such as interest rates, currency exchange rates, prices and economic and financial indices; (iii) providing advice in connection with financing transactions, including but not limited to advice with respect to alternative financing or capital structures; (iv) arranging equity and/or debt financing for transactions, and assisting in structuring and negotiating the terms of specific financings; (v) Providing valuation services; (vi) advising in connection with merger, acquisition, joint venture and divestiture considerations; (vii) rendering fairness opinions in connection with merger, acquisition and similar transactions; and (viii) conducting feasibility studies for corporations.

Chemical has committed to abide by the conditions set out in the Board's Order in Scandinavian Bank Group plc, 75 Federal Reserve Bulletin 311 (1989), with respect to Company's financial advisory service activities.

Chemical has also applied to engage, through Company, in the placement, as agent for issuers, of all types of securities within the following limitations: (i) Company will act only as agent, without recourse, solely upon the order and for the account of clients, or as "riskless principal", and will not assume market risk with respect to the securities being placed; (ii) Company will place securities only with a limited number of financially sophisticated institutions and individuals, and will not offer securities to the general public or make any general solicitation or advertisement of the securities it privately places, (Company will not engage in "best efforts" underwriting as part of the proposed activities); (iii) Company will not purchase or repurchase for its own account, or inventory overnight any securities placed by the Company, however Company may engage in riskless principal transactions not involving a foreign affiliate of Company; (iv) Company will comply with all applicable rules and regulations of the Securities and Exchange Commission and state securities commissions, as well as the applicable Rules of Fair Practice of the National Association of Securities Dealers or the rules of the applicable self-regulatory organization.

Company and its affiliates will also abide by the conditions numbered 5–9, 11, 13–16, and 19 contained in the Board's Orders authorizing Chemical to underwrite and deal to a limited extent in certain securities, as if references in such conditions to securities underwritten or distributed and to underwriting and distribution were references to securities privately placed and to private placement, as the context may require. *See Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Citicorp, Manufacturers Hanover Corporation and Security Pacific Corporation*, 73 Federal Reserve Bulletin 731 (1987); and *Chemical New York Corporation*, 73 Federal Reserve Bulletin 616 (1987). *See also, Citicorp, J.P. Morgan and Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987).

The Board has not previously determined that the proposed combination of activities is permissible under section 4(c)(8) of the Bank Holding Company Act. Section 4(c)(8) provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking as to be

a proper incident thereto." Chemical maintains that the proposed placement activities are closely related to banking because banks generally provide private placement services.

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Chemical contends that permitting Company to engage in the proposed activities on a consolidated basis at the same location would result in increased efficiencies for Chemical as well as increased convenience for customers. Furthermore, states Chemical, any potential conflicts of interest that might be said to arise from the proposed activities are ones that banks have been managing successfully for years in conducting placement activities, and nonetheless are adequately addressed by the commitments noted above, as well as the disclosure obligations and antifraud provisions of the various federal securities laws, and the anti-tying provisions of various banking and antitrust statutes including the Bank Holding Company Act and the Federal Reserve Act.

Chemical further contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), relying on Securities Industry Ass'n v. Board of Governors, 807 F.2d 1052 (D.C. Cir. 1986), cert. denied, 107 S.Ct 3228 (1987).

Any request for a hearing on this application must comply with 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than October 25, 1989.

Board of Governors of the Federal Reserve System, September 29, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-23552 Filed 10-4-89; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Thursday, October 26. The meeting, which will be open to public observation, will take place in the Board Room of the Eccles Building. The meeting is expected to begin at 9:00 a.m. and to continue until 5:00 p.m. with a lunch break from 1:00 until 2:00 p.m. The Eccles Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. **Home Mortgage Disclosure Revisions** Discussion of the Board's proposal to implement recent statutory amendments requiring depository institutions and mortgage companies to report information about the race, gender, and income levels of mortgage applicants and borrowers.

2. **Community Development Credit Unions** Discussion led by the Community Affairs Committee on community development credit unions and their work.

3. **Levels of Consumer Indebtedness and Personal Bankrupticies** Briefing by Board staff on nationwide trends regarding levels of consumer's indebtedness and personal bankruptcy filings; and discussion led by the Consumer Education Committee.

4. **The Use of Credit Cards in Telemarketing Operations** Discussion led by the Consumer Credit Committee on problems related to the use of credit cards in telemarketing programs and whether legislative remedies or voluntary industry actions should be used to address these problems.

5. **Committee Reports** Progress reports from Council committees on their work for the year.

6. **Members Forum** Views of individual Council members regarding ways to promote affordable housing for low-income and older Americans (with emphasis on the contributions that financial institutions can make).

Other matters previously considered by the Council or initiated by Council members may also be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Comments must be received no later than close of business Friday, October 21, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Bedelia Calhoun, Staff Specialist, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-2412. Telecommunications Device for the Deaf (TDD) users may contact Earnestine Hill or Dorothea Thompson, (202) 452-3544.

Board of Governors of the Federal Reserve System, September 28, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-23549 Filed 10-4-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Determination of Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Request for public comment on the use of Gross Registered Tonnage (GRT) [1] as reported by Lloyd's Registry of Shipping in the determination of fees collected for sanitation inspections of cruise ships and the fee schedule for an extra small ship.

SUMMARY: Public comment is requested on the GRT as reported by Lloyd's Registry of Shipping as the basis for the determination of fees for sanitation inspections of passenger cruise ships and the fees to be set for small passenger cruise ships currently inspected under the Vessel Sanitation Program, Centers for Disease Control (CDC).

DATE: Comments must be received on or before November 6, 1989.

ADDRESS: Comments should be mailed to Director, Center for Environmental Health and Injury Control (F29), Centers for Disease Control, 1600 Clifton Road NE, Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Vernon N. Houk, M.D., Director, Center for Environmental Health and Injury Control, CDC, Atlanta, Georgia 30333. Telephone: FTS: 236-4111, Commercial: (404) 488-4111.

[1] GRT-Gross tonnage in cubic feet, as shown in Lloyd's Registry of Shipping.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The purpose of this announcement is to set out for public comment administrative policies for charges for vessel sanitation inspections conducted by CDC.

A notice of request for public comment on a proposal for collection of fees for sanitation inspections of passenger cruise ships currently inspected under the Vessel Sanitation Program, CDC, was published in the **Federal Register** on Friday, July 17, 1987 (52 FR 27060); a subsequent amendment to extend the comment period an additional 30 days was published in the **Federal Register** on Wednesday, August 12, 1987 (52 FR 29889). The notice providing the Department's response to the comments received and setting forth the schedule of fees to be charged for 1988 was published in the **Federal Register** on Tuesday, November 24, 1987 (52 FR 45019). A revised fee schedule for 1989 was published in the **Federal Register** on Thursday, November 3, 1988 (53 FR 44528).

The **Federal Register** Notice of July 17, 1987 (52 FR 27060), cited the appropriate authority for the vessel sanitation inspections (Public Health Service Act Sections 361–369, 42 U.S.C. 264–272) and the authority to collect fees for the full costs of service (Pub L. 99–551, Sec. 101(i)).

The schedule of fees set for in the public notices are based on the Gross Registered Tonnage (GRT) of the passenger vessels as reported by Lloyd's Registry of Shipping. Use of GRT as the basis for determining fees was suggested as being the most reasonable and equitable since the number and size of the food service areas and the size of the onboard water systems, and therefore the complexity and length of sanitation inspections, are generally a function of the vessel's GRT. At the time public comments were solicited on determination of fees for sanitation inspections, there were no objections received regarding the use of the GRT as reported by Lloyd's Registry of Shipping. It has recently been brought to the Department's attention that the method of determining the gross tonnage varies from country to country and is not always consistent. The most consistent method comparing ships of different countries registries is that used by Lloyd's Registry of Shipping. The Department is aware of a company which questioned the GRT of one of its vessels and submitted to the Vessel Sanitation Program certification from Lloyd's Registry of Shipping for a change in the GRT. There has been instances when other companies petitioned Lloyd's Registry of Shipping for an adjustment to a certified GRT and the gross tonnage has not yet been changed.

In order to assure a consistent and fair determination of tonnage for the purpose of establishing sanitation inspection fees, the Department will continue to use the report from Lloyd's Registry of Shipping as the accepted GRT. Companies wishing to adjust the GRT used by the Department to establish sanitation inspection fees should submit certification from Lloyd's Registry of Shipping showing the changed GRT. In the interim, the Department will continue to assess sanitation fees based upon GRTs in the current Lloyd's Registry of Shipping.

Public comment is requested on the most fair and equitable method of determining the gross tonnage of a vessel for the purpose of calculating fees to be charged for vessel sanitation inspections.

In addition, public comment is requested on the proposed method of setting fees for vessels of less than 15,000 GRT. The current size/cost factor is as follows:

Size	Cost factor
Small ship <15,000 GRT.	Avg. Cost × 0.5
Medium Ship 15,000–30,000 GRT.	Avg. Cost × 1.0
Large Ship >30,000–65,000 GRT.	Avg. Cost × 1.5
Extra Large Ship >65,000 GRT.	Avg. Cost × 2.0

There are a number of vessels whose tonnage does not exceed 3,000 GRT but who meet all other criteria for sanitation inspections. The number of passengers on board these small vessels varies from 40 to 140. The Department proposes to revise the schedule of sanitation inspection fees by adding an additional category of Extra Small Ship (below 3,000 GRT) and adjusting the size range of a Small Ship to 3,000–15,000 GRT. The fee for the Extra Small Ship would be one-fourth (0.25) the amount charged for a medium vessel (15,001–30,000 GRT).

Dated: September 29, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89–23546 Filed 10–4–89; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 87B–0025]

Preproduction Quality Assurance Planning; Availability of Recommendations for Medical Device Manufacturers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Preproduction Quality Assurance Planning: Recommendations for Medical Device Manufacturers—September 1989." These recommendations are intended to assist medical device manufacturers in planning and implementing a preproduction quality assurance program. Such a program could provide additional assurance of the safety and effectiveness of the device design, prior to the manufacturer releasing the design to production. A draft document was previously made available for public comment.

ADDRESSES: Submit written requests for single copies of the final recommendations to the Division of Small Manufacturers Assistance (HFZ–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6597 (toll-free outside MD, 800–638–2041). Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The final document and the previous draft are on file and are available for review at the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: W. Fred Hooten, Center for Devices and Radiological Health (HFZ–330), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1128.

SUPPLEMENTARY INFORMATION: FDA, through the Center for Devices and Radiological Health (CDRH), develops and carries out a national program to ensure the safety and effectiveness of medical devices. FDA often formulates and disseminates recommendations about matters which are authorized by, but do not involve direct regulatory action under, the laws administered by the agency. Accordingly, FDA is making available these recommendations under 21 CFR 10.90(c). As such, the recommendations are not legally binding on medical device manufacturers. The recommendations contain preproduction practices which are intended to minimize design defects

that have resulted in device recalls and to ensure the safety and effectiveness of device designs before their release to production.

In monitoring device recalls, FDA has compiled data which show that from October 1983 to November 1987 approximately 45 percent of all recalls were due to preproduction-related problems, i.e., problems or deficiencies incorporated into the device design during the preproduction phase. FDA believes that use of these recommendations will help to reduce the number of design flaws in medical devices and thereby improve their overall safety and effectiveness.

In the **Federal Register** of May 19, 1987 (52 FR 18747), FDA announced the availability of a draft document entitled "Preproduction Quality Assurance Planning: Recommendations for Medical Device Manufacturers—May 1987." Interested persons were invited to comment during a 90-day period. As a result of that notice, the agency received 33 comments from 4 parties: a law firm, 2 manufacturers' associations, and 1 manufacturer of medical devices. In addition to these comments, the agency received 28 comments from the Good Manufacturing Practice Advisory Committee and the American Society for Quality Control. All of the comments were carefully reviewed and a number of changes were made in the recommendations as a result of the review.

Copies of the recommendations are on file and available for review in the Dockets Management Branch (address above). Single copies of the recommendations may be obtained from the Division of Small Manufacturers Assistance (address above), which also will, upon request, provide information regarding how to obtain copies of the references identified in Appendix II to the recommendations.

Interested persons may at any time submit to the Dockets Management Branch written comments regarding the recommendations identified with the docket number found in brackets in the heading of this document. Such comments will be considered in determining whether amendments to or revisions of the recommendations are warranted. Two copies of comments are to be submitted, except that individuals may submit single copies. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-23564 Filed 10-4-89; 8:45 am]

BILLING CODE 4160-10-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

Agency: Health Care Financing Administration, HHS. The Department of Health and Human Services (HHS) previously published a list of information collection packages it submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (Pub. L. 96-511). The Health Care Financing Administration (HCFA), a component of HHS, now publishes its own notices as the information collection requirements are submitted to OMB. The HCFA has submitted the following requirements to OMB since the last HCFA list was published.

1. *Type of Request:* Revision; *Title of Information Collection:* Quarterly Showing; *Form Number:* HCFA-R-41; *Frequency:* Quarterly; *Respondents:* State/local governments; *Estimated Number of Responses:* 188; *Average Hours per Response:* 45; *Total Estimated Burden Hours:* 8,460 (Reporting) and 752 (Recordkeeping) for a total of 9,212 hours.

2. *Type of Request:* Extension; *Title of Information Collection:* Information Collection Requirements at 42 CFR 1004.40, 1004.50, 1004.60 and 1004.70 (Peer Review Organizations Sanctions); *Form Number:* HCFA-R-65; *Frequency:* On occasion; *Respondents:* Businesses/other for profit and small businesses/organizations; *Estimated Number of Responses:* 1,080; *Average Hours per Response:* 28.4; *Total Estimated Burden Hours:* 30,672.

3. *Type of Request:* Extension; *Title of Information Collection:* Information Collection Requirements in Alternative Sanctions for Long Term Care Facilities, 42 CFR 442.118; *Form Number:* HCFA-R-93; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 686; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 686.

4. *Type of Request:* Extension; *Title of Information Collection:* Hospice Survey Report Form; *Form Number:* HCFA-449; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 560; *Average Hours per Response:* 3; *Total Estimated Burden Hours:* 1,680.

5. *Type of Request:* Reinstatement; *Title of Information Collection:* Request for Approval as a Supplier of ESRD Services; *Form Number:* HCFA-3402; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 800; *Average Hours per Response:* 166; *Total Estimated Burden Hours:* 133.

6. *Type of Request:* Extension; *Title of Information Collection:* Conditions of Participation for Long Term Care Facilities for the Mentally Retarded; *Form Number:* HCFA-R-120; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 3,660; *Average Hours per Response:* 14.8; *Total Estimated Burden Hours:* 54,181.

7. *Type of Request:* Extension; *Title of Information Collection:* Information Collection Requirements Concerning Systems Performance Review (SPR); *Form Number:* HCFA-R-86; *Frequency:* Not applicable—recordkeeping; *Respondents:* State/local governments; *Estimated Number of Recordkeepers:* 22; *Average Hours per Recordkeeper:* 2,000; *Total Estimated Burden Hours:* 44,000.

8. *Type of Request:* Revision; *Title of Information Collection:* Home Health Agency Certification and Survey Report Form; *Form Number:* HCFA-1515 and 1572; *Frequency:* Annually; *Respondents:* State/local governments; *Estimated Number of Responses:* 3,180; *Average Hours per Response:* 1,75; *Total Estimated Burden Hours:* 5,565.

9. *Type of Request:* Reinstatement; *Title of Information Collection:* Home Office Cost Statement; *Form Number:* HCFA-287; *Frequency:* Annually; *Respondents:* Businesses/other for profit and small businesses/organizations; *Estimated Number of Responses:* 850; *Average Hours per Response:* 328 (Reporting) and 138 (Recordkeeping); *Total Estimated Burden Hours:* 278,800 (Reporting) and 117,300 (Recordkeeping) for a total of 396,100.

10. *Type of Request:* Extension; *Title of Information Collection:* Application for Hospital Insurance; *Form Number:* HCFA-18; *Frequency:* One-time; *Respondents:* Individuals/households; *Estimated Number of Responses:* 50,000; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 12,500.

11. *Type of Request:* Extension; *Title of Information Collection:* Organ Procurement Agency/Histocompatibility Laboratory Statement of Reimbursable Costs; *Form Number:* HCFA-216; *Frequency:* Annually; *Respondents:*

Businesses/other for profit; *Estimated Number of Responses:* 97; *Average Hours per Response:* 45; *Total Estimated Burden Hours:* 4,365.

12. *Type of Request:* Revision; *Title of Information Collection:* Demonstration Cost Report; *Form Number:* HCFA-2552-DEMO; *Frequency:* Annually; *Respondents:* All hospitals in the States of California and Colorado; *Estimated Number of Responses:* 700; *Average Hours per Response:* 150; *Total Estimated Burden Hours:* 105,000. Notice of a request for OMB expedited review for HCFA-2552-DEMO was published in the **Federal Register** of August 28, 1989 (54 FR 35535); however, HCFA has withdrawn the request for expedited review.

Additional Information or Comments: Call the Reports Clearance Office on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, Room 3208, Washington, DC 20503.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 89-23581 Filed 10-4-89; 8:45 am]

BILLING CODE 4120-03-M

Region VI—Dallas; Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 46, No. 223, pp. 56927-56928, dated Thursday, November 19, 1981, and Vol. 48, No. 196, pp. 46446-46447, dated Wednesday, October 12, 1983, Vol. 52, No. 178, pp. 34849-34850, dated Tuesday, September 15, 1987, Vol. 53, No. 139, pp. 27401-27402, dated Wednesday, July 20, 1988, Vol. 54, No. 92, pp. 20925-20926, dated Monday, May 15, 1989, Vol. 54, No. 95, pp. 21476-21479, dated Thursday, May 18, 1989, and Vol. 54, No. 102, pp. 22955-22956, dated Tuesday, May 30, 1989, is amended to reflect a reorganization within Region VI, Office of the Associate Administrator for Operations (AAO). The regional office is reorganizing from a functional structure to a programmatic structure with respect to the administration of the Medicare and Medicaid programs. The reorganization is similar to those in Regions II, IV, VII, IX, and X. The reorganization abolishes the current Division of Program Operations and Division of Financial Operations and replaces them with the Division of Medicaid and the Division of Medicare.

The specific amendments to Part F. are described below

• Section FP.20.D.3., Division of Financial Operations (FPD (V, VI)C), is amended by deleting Region VI from the title. The new section title reads: Section FP:20.D.3., Division of Financial Operations (FPD (V)C).

• Section FP.20.D.4., Division of Program Operations (FPD (V, VI)D), is amended by deleting Region VI from the title. The new section reads: Section FP.20.D.4., Division of Program Operations (FPD (V)D).

• Section FP.20.D.5., the Division of Medicaid (FPD(I, II, III, IV, VII, VIII, IX and X)E) is amended to include Region VI. The new section reads:

5. Division of Medicaid (FPD(I, II, III, IV, VI, VII, VIII, IX and X)E).

Under the direction of the HCFA Regional Administrator, plans, manages, and provides Federal leadership to State agencies in program implementation, maintenance, and the regulatory review of State Medicaid program management activities under title XIX of the Social Security Act and assures the propriety of Federal expenditures. Provides consultation and guidance to States on appropriate matters including interpretation of Federal requirements, options available to States under these requirements, and information on practices in other States. Maintains day-to-day liaison with State agencies and monitors their Medicaid program activities and practices by conducting periodic program management and financial reviews to assure State adherence to Federal law and regulations. Reviews, approves, and maintains official State plans and plan amendments for medical assistance. Provides consultation to states on freedom of choice waivers; reviews and provides comments to the central office on waiver requests; and monitors the approved waiver requests. Provides consultation to States in the administration of the amount, duration, scope, and payment of health services available under the State program. Monitors, reviews, and approves (after central office concurrence for hospitals and long-term care facilities) State payment systems and determines the allowability or non-allowability of claims for Federal financial participation (FFP); and where State expenditures have not been in accordance with Federal requirements, takes action to disallow such claims. Stimulates State action toward achievement of selected program objectives and monitors their progress. Reviews States' quarterly statements of expenditures and recommends appropriate action on amounts claimed. Defers payment action on questionable State claims, reviews the claims for allowability, and recommends appropriate action. Issues orders suspending FFP on behalf of State payments to title XIX provider institutions and the recovation of such suspension orders. Supports, evaluates, and provides advice on State management information and claims payment systems. Implements title XIX special iniatives, such as prepaid health plans, health maintenance organizations, and other special or experimental programs, and operations of major management initiatives such as quality control. Where appropriate, provides an opportunity for State input to operational plans, policy, regulations, legislation, and budget formulation. Responds to beneficiary, congressional, provider, and public inquiries concerning Medicaid issues and takes appropriate action on individual case situations. Accepts and responds to Freedom of Information Act requests and on matters concerning the Privacy Act. Supports HCFA headquarters in activities concerning research and demonstration projects.

• Section FP.20.D.6., the Division of Medicare (FPD(I, II, III, IV, VII, VIII, IX and X)F) is amended to include Region VI. The new section reads:

6. Division of Medicare (FPD(I, II, III, IV, VI, VII, VIII, IX and X)F).

Under the direction of HCFA Regional Administrator, assures the effective administration of the Medicare program through the day-to-day working relationship with Medicare contractors, providers, physicians, the Social Security Administration (SSA) regional office and district office personnel, elements of the Office of the Inspector General, and other organizations and individuals concerned with program operations. Assures the continuing surveillance and appraisal of Medicare contractors in the administration of health insurance provisions. Identifies problems and initiates action to ensure contractor adherence to national Medicare policy and procedures. Directs Medicare regional financial management activities. Directs a program of in-depth reviews to evaluate the effectiveness of the Medicare program. Conducts a quality assurance programs and onsite performance appraisals and analyzes statistical

performance reports. Negotiates and approves contractor budget modifications to budget allotments and final cost settlements. Coordinates day-to-day contractor financial management activities. Reviews and approves certain subcontracts and leases, monitors banking activities, and evaluates the cost allocation procedures of contracts. Conducts contractor appraisals. Interprets HCFA's institutional payment policies. Relates appropriately to elements of SSA, providing consultation on Medicare program matters and any other activity necessary to achieve program objectives. Provides direction to Medicare contractors in carrying out their responsibilities for interfacing with peer review organizations. Establishes and maintains liaison with organizations representing health care professionals, providers of health care services, and program beneficiaries. Takes necessary action on matters relating to the Freedom of Information Act and the Privacy Act. Performs regional responsibilities relating to experimental and demonstration projects. Assumes responsibility for program training and assures timely responses to congressional and public inquiries. Relates appropriately to central office components such as providing feedback on operations, activities, and problems, and by providing regional perspectives in the development of Agency policies, objectives, and work plans. In coordination with the Division of Medicaid, handles inter-program activities such as the Medicare buy-in for Medicaid beneficiaries.

Dated: September 25, 1989.

Robert A. Streimer,

Acting Associate Administrator for Management.

[FR Doc. 89-23465 Filed 10-4-89; 8:45 am]

BILLING CODE 4120-01-M

Health Resources and Services Administration

Program Announcement for Nurse Anesthetist Traineeship Grants

The Health Resources and Services Administration announces that applications for Fiscal Year 1990 Nurse Anesthetist Traineeship Grants will be accepted under the authority of section 831 of the Public Health Service Act, as amended by Title VII of Pub. L. 100-607.

The Administration's budget request for Fiscal Year 1990 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 831 of the Public Health Service Act, as amended, authorizes grants for traineeships to prepare licensed, registered nurses to be nurse anesthetists and for projects to develop and operate programs for the education of nurse anesthetists.

This announcement under section 831 is limited to traineeship assistance. Another FY 1990 announcement will be issued to cover requests for program support.

To be eligible to receive support, an applicant must be a public or private nonprofit institution which provides registered nurses with full-time nurse anesthetist training. The training program must be accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs and must currently have full-time students who are registered nurses who are enrolled beyond the 12th month of study in the nurse anesthetist training program.

Review Criteria

To receive support, applicants must meet the requirements of final regulations in 42 CFR part 74, subpart F as specified below.

The review of applications will take into consideration the following criteria:

(a) The qualifications of the Program Director;

(b) The number of full-time registered nurse students enrolled in the program who have completed 12 months of study; and

(c) The level of student support for nurse anesthetist training provided by the applicant.

In addition, the following mechanisms may be applied in determining the funding of approved applications.

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups or applications, such as competing continuations ahead of new projects.

2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

The Administration does not intend to apply any funding priorities or special considerations in the review of applications for Fiscal Year 1990.

Funding Preferences for Fiscal Year 1990

In determining the funding of applicants which have been recommended for approval, preference will be given to applications which satisfactorily demonstrate a commitment to increased enrollment and retention of minority and financially needy students in their programs or show evidence of efforts to recruit minority and financially needy students. "Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black or Hispanic.

"Financially needy" means that a student has exceptional financial need. For purposes of this program a student will have exceptional financial need if the school determines that the student's resources do not exceed the lesser of $5,000 or one-half of the cost of attendence at the school. Student summer earnings, educational loans, veterans (G.I.) benefits, and earnings during the school year will not be considered resources for purposes of determining whether a student has exceptional financial need.

The Department notes that all eligible applications will be reviewed and given consideration for funding.

These funding preferences were implemented in 1989 and are being extended for Fiscal yeart 1990.

In determining the amount of the grant award, the Department will use a formula based on the number of approved applications and the number of full-time registered nurses who are beyond the 12th month of study.

The application deadline date is November 1, 1989.

Applications shall be considered as meeting the deadline if they are either:

1. *Received* on or before the deadline date, or

2. *Postmarked* on or before the deadline and received in time for submission for review. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

For specific guidelines and information regarding this program contact:

Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 5C-13, 5600 Fishers

Lane, Rockville, Maryland 20857, Telephone: (301) 443-5763.

Requests for application materials, questions regarding grants policy and completed applications should be directed to:

Grants Management Officer (A-22), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 208547, Telephone: (301) 443-6915.

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915-0060.

This program is listed at 13.124 in the *Catalog of Federal Domestic Assistance* and is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 7, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-23451 Filed 10-4-89; 8:45 am]

BILLING CODE 4160-15-M

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduling to meet during the month of October 1989.

Name: Advanced General Dentistry Review Committee.

Date and Time: October 10-12, 1989, 8:30 a.m.

Place: Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on October 10, 8:30 a.m.-3:30 a.m.

Closed for Remainder of Meeting.

Purpose: The Avanced General Dentistry Review Committee shall review applications from public and nonprofit private schools of dentistry or accredited postgraduate dental training institutions that plan, develop and operate an approved residency program or advanced educational program in the general practice of dentistry, including the support of trainees in such programs who plan to specialize in the practice of general dentistry.

Agenda: The open portion of the meeting will cover welcome and opening remarks, legislative updates, and overview of the review process. The meeting will be closed to the public on October 10, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Actding Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Council should contact Dr. Richard Weaver, Executive Secretary, Advanced General Dentistry Review Committee, Room 8C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6837.

Agenda Items are subject to change as priorities dictate.

Dated: October 2, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89-23723 Filed 10-4-89; 8:45 am]

BILLING CODE 4160-15-M

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: 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 Claim 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, Parklawn Building, 5600 Fishers Lane, Room 4-101, Rockville, MD 20857, (301) 443-6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensaton 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 to take evidence, conduct hearings as appropriate, and to submit to the Court proposed findings of fact and conclusions of law.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Tables set forth in 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 4 through September 25, 1989. 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) "sustaineed, 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, MD 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. Mark Faith on behalf of Michael T. Faith, Deceased, Bowling Green, Kentucky, Claims Court Number 89-88 V.

2. Heidi Ann Badman on behalf of James W. Badman, Deceased, Elkhart, Indiana, Claims Court Number 89-89 V.

3. Melissa Hines on behalf of Amber Sevier, Orlando, Florida, Claims Court Number 89-90 V.

4. Steven & Joan Gresh on behalf of Megan A. Gresh, Colorado Springs, Colorado, Claims Court Number 89-91 V.

Dated: September 29, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-23565 Filed 10-4-89; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting of Microbiology and Infectious Diseases Research Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on October 18-19, 1989, in Building 31C, Conference Room 7, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 10:15 a.m. on October 18, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10:15 a.m. until recess on October 18, and from 8:30 a.m. until adjournment on October 19. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301)496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Olivia T. Preble, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 3A10, Bethesda, Maryland 20892, telephone (301-496-8208), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: September 22, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-23596 Filed 10-4-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Public Law 92-463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development for November 1989.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, NICHD, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Committee Management Officer, NICHD, Executive Plaza North Building, Room 520, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the Executive Secretary indicated.

Name of Committee: Mental Retardation Research Committee.

Executive Secretary: Dr. Susan Streufert, Room 520, Executive Plaza North Building, Telephone: 301, 496-1696.

Date of Meeting: November 3-4, 1989.

Place of Meeting: Hyatt Regency Phoenix, 122 North Second Street, Phoenix, Arizona.

Open: November 3, 1989, 6:00 p.m.—7:00 p.m.

Closed: November 3, 1989, 7:00 p.m.—12:00 p.m. November 4, 1989, 8:30 a.m.—adjournment.

Name of Committee: Maternal and Child Health Research Committee.

Executive Secretary: Dr. Scott Andres, Room 520, Executive Plaza North Building, Telephone: 301, 496-1485.

Date of Meeting: November 7-8, 1989.

Place of Meeting: American Inn of Bethesda, 8130 Wisconsin Avenue, Bethesda, Maryland.

Open: November 7, 1989, 8:30 a.m.—9:30 a.m.

Closed: November 7, 1989, 9:30 a.m.—5:00 p.m. November 8, 1989, 8:00 a.m.—adjournment.

Name of Committee: Population Research Committee.

Executive Secretary: Dr. A.T. Gregoire, Room 520, Executive Plaza North Building, Telephone: 301, 496-1696.

Date of Meeting: November 20-21, 1989.

Place of Meeting: Executive Plaza North, Conference Rm. H, 6130 Executive Blvd, Rockville, Maryland.

Open: November 20, 1989, 9:00 a.m.—10:00 a.m.

Closed: November 20, 1989, 10:00 a.m.—5:00 p.m., November 21, 1989, 9 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Progam No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: September 22, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-23597 Filed 10-4-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the Communication Disorders Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Communication Disorders Review Committee of the National Institute on Deafness and Other Communication Disorders, October 16-17, 1989, at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

This meeting will be open to the public on October 16 from 8:30 a.m. to 9:00 a.m. to discuss program planning, program accomplishments and special reports or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

This meeting will be closed to the public on October 16 from 9:00 a.m. to recess and on October 17 from 8:30 a.m. to adjournment in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion on personal privacy.

A summary of meeting, roster of committee members, and other information pertaining to the meeting can be obtained from Dr. Marilyn Semmes, Executive Secretary of the Communication Disorders Review Committee, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: September 22, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-23598 Filed 10-4-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of NIDR Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institutee of Dental Research, November 7-8, 1989, in the Guest Quarters Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814. The Committee will meet in the Charles Room. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on November 7 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on November 7 from 9:30 a.m. to recess, and on November 8 from 8 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13-122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845—Dental Research Institute; National Institutes of Health.)

Dated: September 22, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-23599 Filed 10-4-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, December 7 and 8, 1989, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7N214, Bethesda, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 4 p.m. on December 7 and from 9:00 a.m. to 12 noon on December 8 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provision set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 12 noon to adjournment on December 8 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Board members.

Substantive program information may be obtained from Dr. Edward D. Korn, Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7n214, phone (301) 496-2116.

Dated: September 25, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-23600 Filed 10-4-89; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meeting of the Biomedical Library Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee on November 2-3, 1989, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on November 2 will be open to the public from 8:30 a.m. to approximately 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting on November 2 will be closed to the public for the review, discussion, and evaluation of individual grant applications from approximately 11:00 a.m. to 5 p.m., and on November 3, from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: September 22, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–23602 Filed 10–4–89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological Disorders and Stroke; Meeting, Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on November 29–30, and December 1, 1989, Conference Room 1B07, Building 36, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:00 p.m. on November 30 in Bldg. 36, Rm. 1B07, to discuss program planning and program accomplishments. Attendance by the pubic will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 8 p.m. to 10 p.m. on November 29 and from 9 a.m. until adjournment on December 1 in Bldg. 36, Rm. 1B07 for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigations and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. David Mineo, Federal Building, Room 1004, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Executive Secretary, Dr. Irwin J. Kopin, Director, Division of Intramural Research, NINDS, Building 10, Room 5N214, National Institutes of Health, Bethesda, MD 20892, telephone (301) 496–4297 will furnish a summary of the meeting and a roster of committee members upon request.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: September 25, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–23601 Filed 10–4–89; 8:45 am]

BILLING CODE 4140-01-M

Office of Human Development Services

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection for the Administration for Children, Youth and Families' Annual Summary of Child Welfare Services and Annual Budget Request for title IV–B Funds.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245–6275.

Written comments and questions regrading the requested approval for information collection should be sent directly to Justin Kopca, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, Room 3208, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Annual Summary of Child Welfare Services and Annual Budget Request for Title IV–B Funds.

OMB No.: 0980–0047.

Description: Each State submits to the Administration for Children, Youth and Families the Annual Summary of Child Welfare Services and Annual Budget Request for Title IV–B Funds enabling it to receive formula grant funds under Title IV–B of the Social Security Act.

Annual Number of Respondents: 95.

Annual Frequency: 2.

Average Burden Hours Per Response: 7.

Total Burden Hours: 1,330.

Dated: September 27, 1989.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 89–23466 Filed 10–4–89; 8:45 am]

BILLING CODE 4130-01-M

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection for the Administration for Children, Youth and Families' Study of Adoption Assistance Impact and Outcomes.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245–6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to Justin Kopca, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, Room 3208, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Study of Adoption Assistance Impact and Outcomes.

OMB No: N/A.

Description: Interviews with adoptive parents of children placed by public adoption agencies will assess the impact of the federal adoption subsidy program on adoptions of special needs children and examine the impact of adoptions on children and families. Findings are expected to generate recommendations for future adoption program and policy.

Annual Number of Respondents: 480.
Annual Frequency: Varies.
Average Burden Hours Per Response: 5.7.
Total Burden Hours: 2,733.

Dated: September 27, 1989.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 89-23467 Filed 10-4-89; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-2058]

Submission of Proposed Information collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: September 28, 1989.

John T. Murphy,

Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Survey of Owner's Degree of Customer Satisfaction as a Result of Using the Rental Rehabilitation Program.

Office: Community Planning and Development.

Description of the need for the information and its proposed use: The survey will be used to measure the degree of customer satisfaction with the Rental Rehabilitation Program Administration at the local, regional, and national levels.

Form number: None.

Respondents: Individuals or Households, Businesses or Other For-Profit, and Non-Profit Institutions.

Frequency of submission: One-time Survey.

Reporting burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Survey	30,000		1		.083		2,500

Total estimated burden hours: 2,500.
Status: New.
Contact: Marybeth Frazier, HUD, (202) 755-5970, John Allison, OMB, (202) 395-6880.

Date: September 28, 1989.

[FR Doc. 89-23519 Filed 10-4-89; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-050-09-4351-12]

Emergency Closure of Public Lands (Western Portion of the Shoshone BLM District)

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: Notice is hereby given that effective immediately all public lands located in the western portion of the Shoshone BLM District are closed to off-road motorized travel. The closed area is bounded and generally described as follows:

That portion of Idaho Department of Fish and Game Unit 45, west of the Bliss-Hill City Road to the Snake River, downstream to the confluence of King Hill Creek with the Snake River, up King Hill Creek to the Idaho Power two power line, east along the power line to White Arrow Ponds on the Bliss-Hill City Road to the point of beginning.

All public lands administered by the Bureau of Land Management within the above described area are closed to off-road motorized vehicle use, from the date of the notice until April 1, 1990.

Exemptions from this closure for federal, state, and local government personnel on official duty, emergency service personnel including medical, search and rescue, utility services, and all other licensed/permitted individuals may be approved by the Authorized Officer.

The described area is currently experiencing high concentrations of Mule Deer hunters during a late muzzeloader hunt season. The hunting activity has encouraged off-road motorized use which is opening tracks for excessive soil erosion during snowmelt or seasonal rains. The purpose of the closure is to protect the natural resources from excessive soil erosion caused by disturbances from off-road vehicle use.

The authority for this closure is 43 CFR 8364.1. The closure will remain in effect until April 1, 1990.

DATE: Wednesday, September 27, 1989.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, ID 83352

FOR FURTHER INFORMATION AND APPLICATION FOR EXCLUSION PERMITS CONTACT: Robert D. Cordell, Bennett Hills Resource Area Manager, P.O. Box 2-B, Shoshone Idaho 83352, telephone (208) 886-2206.

K. Lynn Bennett,
District Manager.

[FR Doc. 23617 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-GG-M

[NM-010-09-4333-13/GP9-0122]

Albuquerque District Office; Land Closure, New Mexico.

AGENCY: Bureau of Land Management, Albuquerque District, Interior.

ACTION: Closure of Public Lands to Public Access.

SUMMARY: The public land inside the La Plata Coal Mine permit area in northern San Juan County New Mexico is closed to public access.

Notice is hereby given that the La Plata Mine permit area in San Juan County, New Mexico is closed to public access year-round. All public uses are restricted except those uses authorized in the mine permit.

The purpose of the closure is for safety reasons. The closure will prevent injury to the public in the immediate mining area and protect personnel and facilities from stray bullets during hunting season and recreational target practice. The Mine permit area is fenced and signed to identify the closure.

The authority for this closure is 43 CFR part 8360—Subpart 8364.1, Closure and Restriction Orders. Failure to comply with this order will subject violators to the penalties provided in 43 CFR 8360.0-7.

The La Plata Mine permit area closed to public access is described as:

T. 32 N., R. 12 W.
- Sec. 7: Lot 3, SE/4SW/4: north to Colorado border;
- Sec. 8: Lots 5-8: north to Colorado border;
- Sec. 17: lots 3-5;
- Sec. 18: Lots 1, 3, N/2SE/2, NE/4SW/4, SE/4NE/4.

T. 32 N., R. 13 W.
- Sec. 13: Lots 3-12, S/2NW/4;
- Sec. 14: S/2NE/4; SE/4NW/4, S/2;
- Sec. 15: E/2SE/4;
- Sec. 22: E/2NE/4;
- Sec. 23: All (includes area between haul road and permit boundary);
- Sec. 24: Lots 1-4, NW/4NE/4, W/2W/2SW/4;
- Sec. 25: NW/4NW/4NW/4;
- Sec. 26: N/2N/2NE/4.

Dated: September 29, 1989.

Robert T. Dale,
District Manager.

[FR Doc. 89-23618 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-FB-M

[WO-150-00-4830-11]

National Public Lands Advisory Council: Call for Nominations

AGENCY: Bureau of Land Management.

ACTION: Call for Nominations for National Public Lands Advisory Council.

SUMMARY: The purpose of this notice is to call for nominations for seven memberships on the Bureau of Land Management's National Public Lands Advisory Council.

The Council consists of 21 members. Under the established staggered-term arrangement, the terms of seven members on the Council will expire on December 31, 1989. Current Council members may be reappointed or new members may be appointed. Terms of appointment will be for 3 years, beginning January 1, 1990, and expiring December 31, 1992.

Nominees for membership should be well qualified through education, training and experience to give informed and objective advice concerning land use and resource planning for the public lands.

DATE: Nominations should be received by the Bureau of Land Management by November 6, 1989.

ADDRESS: Persons wishing to nominate individuals to serve on the Council should send biographical data that includes name, address, profession, and other relevant information about the candidate's qualifications to: Director (150), Bureau of Land Management, MS-5558, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The function of the Council is to advise the Secretary of the Interior, through the Director, Bureau of Land Management, on policies and programs of a national scope related to the resources and uses of public lands under the jurisdiction of the Bureau of Land Management.

The Council is expected to meet three times a year. Additional meetings may be called by the Director in connection with special needs for advice. Members will serve without salary, but will be reimbursed for travel and per diem expense rates prevailing for Government employees.

FOR FURTHER INFORMATION: Karen Slater, Bureau of Land Management (150), MS-5558, Department of the interior, Washington, DC 20240, Telephone: (202) 343-5101.

Dated: September 28, 1989.

Hillary A. Oden,
Acting Deputy Director.

[FR Doc. 89-23534 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-84-M

[WO-650-00-4120-09]

Federal-State Coal Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to inform the public that the Federal-State Coal Advisory Board (Board) will meet in Salt Lake City, Utah, November 8, 1989. The public is invited to attend. The Board will (1) review the status of regional coal leasing activities, (2) discuss the market outlook for coal, and (3) formulate a recommendation on a long-range lease sale plan for Federal coal.

DATE: The Board will meet at 10:30 a.m. on November 8, 1989.

ADDRESS: The Board meeting will be held at the Red Lion Inn, 255 South West Temple Street, Salt Lake City, Utah 84111, telephone 801-328-2000.

SUPPLEMENTARY INFORMATION: The Board will review the status of coal leasing activities. Regional coal team representatives will present an update of coal leasing activities within their respective regions, including the outlook for lease sales and the current status of preference right lease applications and lease exchanges, where applicable. In addition, Headquarters Bureau of Land Management personnel will present for discussion information on current activities and issues that impact on the coal management program.

The Board will review the long-range outlook for coal markets and its potential impact on the demand for Federal coal. This information will be used to assist the Board in formulating a recommendation on a long-range Departmental lease sale plan at this meeting.

The public will have an opportunity to address the Board on agenda topics during the public comment periods noted on the agenda below. Written copies of a speaker's remarks would be appreciated. Any comments will become a part of the record of the Board meeting. The Chairperson may impose a time limit on comments to ensure that everyone wishing to address the Board is able to do so.

Agenda—Federal-State Coal Advisory Board Meeting

November 8, 1989
Salt Lake City, Utah
Welcome and Introductions
—BLM Director
—Assistant Director, Energy and Mineral Resources
—Other Staff
—Review and Approval of Meeting Agenda
—Approval of 1987 Meeting Minutes
—Director's Remarks
—Regional Coal Team Reports
—Washington Office Report
—Long-Range Market Outlook
—Long-Range Lease Sale Plan
—Discussion
—Public Comments
—Board Recommendation
Adjourn

FOR FURTHER INFORMATION: Stan McKee or Dan Wedderburn, Bureau of Land Management (650), MS-3559, Department of the Interior, Washington, DC 20240, Telephone: (202/FTS) 343-4636.

Dated: September 29, 1989.

Hillary A. Oden,

Acting Deputy Director

[FR Doc. 89-23585 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-84-M

[WO-150-00-4830-11]

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet November 2-4, 1989, at the Red Lion Inn, 3100 Camino del Rio Court, Bakersfield, California. The meeting hours will be 8:00 a.m. to 11:30 a.m., on Thursday, the 2nd, 8:00 a.m. to 5:00 p.m. on Friday the 3rd, and 8:00 a.m. to 11:00 a.m. on Saturday, the 4th. The Council will also participate in a field tour of the Carrizo Plains Natural Area the afternoon of November 2. The proposed agenda for the meeting is:

Thursday, November 2: The State view of public land management in California; Panel discussion on Bureau of Land Management outreach initiatives; Presentation on Fish and Wildlife 2000 program implementation; Discussion of BLM's Area of Critical Environment Concern (ACEC) and Natural Area System.

Friday, November 3: Morning: Overview of California Desert legislative proposals; Presentation on BLM's natural resource education initiatives in California; Council old and new business, to include Department responses to previous Council resolutions; Management by Objective overview; Meeting of Council Subcommittees (Energy and Minerals, Lands, and Renewable Resources). Afternoon: Public statement period; Meeting of Council Subcommittees.

Saturday, November 4: Final meetings of Council Subcommittees; Reports from Subcommittees to full Council and consideration of Council resolutions.

All meetings of the Council will be open to the public. Opportunity will be given for members of the public to make oral statements to the Council, beginning at 1:00 p.m. on Friday, November 3. Speakers should address specific national public lands issues on the meeting agenda and are encouraged to submit a copy of their written comments by October 27 to the Bureau of Land Management's California State Office at the address listed below. Depending on the number of people who wish to address the Council, it may be necessary to limit the length of oral presentations.

DATES: November 2-4—Council Meeting. November 3—Public Statements.

ADDRESS: Copies of public statements should be mailed by October 27 to: Director, California State Office (912), Bureau of Land Management, Federal Building, 2800 Cottage Way, E-2841, Sacramento, California 95825-1889.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Washington, DC Office, BLM, telephone (202) 343-5101; or Tony Staed, California State Office, BLM, telephone (916) 978-4746.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, regarding policies and programs of a national scope related to public lands and resources under the jurisdiction of BLM.

Dated: September 29, 1989.

Hillary A. Oden,

Acting Deputy Director.

[FR Doc. 89-23535 Filed 10-4-89; 8:30 am]

BILLING CODE 4310-84-M

[CA-020-09-4050-90]

Susanville District Advisory Council Meeting

September 27, 1989.

AGENCY: Bureau of Land Management, Interior, Susanville District Advisory Council, Susanville, California.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94-579 (FLPMA), that a meeting of the Susanville District Advisory Council has been scheduled for Tuesday, November 14, 1989. The meeting will begin at 10 a.m. at the Susanville District Office, Bureau of Land Management, 705 Hall St., Susanville, CA 96130, and end at 4 p.m. The agenda will include discussion of an update of agreements on the Fort Sage OHV area, a status report on the Eagle Lake Basin Integrated Management Plan, a report on the status of the District Advisory Council nomination process and a report on the District funding outlook for FY 1990. The council will also be briefed on developments with the District's Wild Horse Adoptability effort, hear a status report on the Cedar Creek IRMP and a discussion about the District's law enforcement program.

The meeting is open to the public, and interested persons may make oral statements or file a written statement for the Council's consideration.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, CA, 96130, by November 3, 1989. Depending on the number of persons wishing to speak, a time limit may be imposed.

FOR FURTHER INFORMATION CONTACT: Jeff Fontana, (916) 257-5381.

Herrick E. Hanks,

District Manager.

[FR Doc. 89-23619 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-40-M

[NM 940-09-4730-12]

New Mexico; Filing of Plat Survey

September 27, 1989.

The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on November 6, 1989.

A survey representing the dependent resurvey of a portion of the North Boundary, a portion of the subdivisional lines and the adjusted record meanders of the left bank of the Washita River in section 5, the approximation of a portion of the 1872 right bank of the Washita River in section 5, the subdivision of section 5, the survey of a portion of the meanders of the 1984 left and right banks of the Washita River in section 5, the medial line of the avulsed portion of the Washita River in section 5 and the

division of accretion lines in section 5, Township 7 North, Range 12 West, of the Indian Meridian, in the state of Oklahoma, executed under Group No. 40, Oklahoma.

This survey was requested by the Area Manager, Bureau of Land Management, Oklahoma Resource Area Headquarters (ORAH), Oklahoma.

A survey representing the dependent resurvey of a portion of the north boundary of the Peralta Tract within the Lo de Padilla Grant, a portion of the subdivisional lines, and certain small holding claim boundaries, and the survey of the west boundary of Isleta Pueblo lands, and certain parcels, Township 7 North, Range 3 East of the New Mexico Principal Meridian, in the State of New Mexico, executed under Group No. 804, New Mexico.

This survey was requested by the Area Director, Bureau of Indian Affairs, Albuquerque Area Office, Albuquerque.

A survey representing the dependent resurvey of a portion of the east and north boundaries, a portion of the subdivisional lines, the adjusted record meanders of the 1873 left bank of the Cimarron River in section 2, and the survey of the 1987 meanders of the left bank of the Cimarron River in section 2, Township 27 North, Range 20 West, of the Indian Meridian, in the state of Oklahoma, executed under Group No. 58, Oklahoma.

This survey was requested by the Area Director, Bureau of Indian Affairs, Anadarko, Oklahoma.

A supplemental plat showing the subdivision of original lot 2, section 19, Township 23 South, Range 3 East, New Mexico Principal Meridian, New Mexico.

These plats will be held in the open files until officially filed at the New Mexico State Office, Bureau of Land Management, Post Office Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Kelley Williamson,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 89-23567 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-FB-M

[NM-030-09-4212-12; NM NM 67560]

Issuance of Surface and Mineral Exchange Conveyance Documents; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States issued two exchange conveyance documents to the State of New Mexico on September 8, 1988, pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), for the following described surface and mineral interests in Dona Ana County, New Mexico.

New Mexico Principal Meridian

Mineral Estate

T. 22 S., R. 2 E.,
Sec. 23, S½NE¼, SE¼NW¼, E½SW¼, S½N½NW¼SW¼, S½NW¼SW¼, SW¼SW¼, and SE¼;
Sec. 24, S½;
Sec. 25, NE¼ and S½;
Sec. 26, W½NE¼, NW¼, and S½;
Sec. 27, E½;
Sec. 34, E½;
Sec. 35, all.
T. 23 S., R. 2 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and S½.
T. 22 S., R. 3 E.,
Sec. 17, SW¼, SW¼NE¼SE¼, W½SE¼, and SE¼SE¼;
Sec. 18, lots 3 to 10, inclusive, lots 13 to 19, inclusive, E½SW¼, and SE¼;
Sec. 20, N½ and NW¼SW¼;
Sec. 30, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, and E½W½.
T. 23 S., R. 3 E.,
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼.

Containing 6,866.43 acres.

Surface and Mineral Estates

T. 22 S., R. 3 E.,
Sec. 20, NE¼SW¼, S½SW¼, and SE¼;
Sec. 29, all;
Sec. 32, all.

Containing 1,560.00 acres.

In exchange for the surface and mineral interests described above, the State of New Mexico conveyed to the United States the following surface and mineral interests in Dona Ana County:

New Mexico Principal Meridian

Surface and Mineral Estates

T. 22 S., R. 3 E.,
Sec. 21, NW¼SW¼;
Sec. 23, W½W½, NE¼NW¼, and SE¼SW¼.
T. 25 S., R. 3 E.,
Sec. 36, all.
T. 26 S., R. 4 E.,
Sec. 16, all.

Containing 1,560.00 acres, more or less.

Mineral Estate

T. 22 S., R. 3 E.,
Sec. 14, W½;
Sec. 36, N½NE¼, SW¼NE¼, W½, and W½SE¼.
T. 23 S., R. 3 E.,
Sec. 2, lots 1 to 9, inclusive, and S½N½;
Sec. 13, SE¼SW¼ and SW¼SE¼;
Sec. 24, N½NE¼, SE¼NE¼, and E½SE¼;
Sec. 25, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 26, lots 7, 8, and SE¼NE¼;
Sec. 36, all.
T. 24 S., R. 3 E.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 11, E½E½;
Sec. 12, N½S½;
Sec. 14, N½N½;
Sec. 34, NW¼SE¼;
Sec. 36, all.
T. 25 S., R. 3 E.,
Sec. 2, lots 1 to 4, inclusive, S½N½, and S½.

Containing 5,515.33 acres, more or less.

The purpose of the exchange was to consolidate and reunite the Federal surface and subsurface estates in and adjacent to Wilderness Study Areas, Organ Mountains Recreation Lands, and areas possessing high riparian wildlife habitat and cultural values. The exchange was consistent with land ownership adjustments as set forth in the Record of Decision for the Southern Rio Grande Plan Amendment dated December 22, 1986. The values of the Federal public land and the non-Federal land in the exchange were equal.

Dated: September 25, 1989.

Larry L. Woodard,

State Director.

[FR Doc. 89-23620 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-FB-M

[NV-040-09-4110-08]

Resource Management Plan; Egan Resource Area, NV

September 28, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an energy and minerals amendment and supplemental Environmental Impact Statement (EIS) for the Egan Resource Management Plan (RMP) and the notice of a scoping period and public workshop for the identification of issues, review of preliminary planning criteria and formulation of alternatives for the plan amendment.

SUMMARY: The Ely Bureau of Land Management (BLM) District Office gives notice of its intent to prepare an amendment and supplemental EIS to the Egan RMP. The Egan Resource Area contains approximately 3,842,216 acres of public lands and public minerals underlying private lands in White Pine, Nye and Lincoln Counties, Nevada. The primary purpose of the amendment is to incorporate determinations for fluid, locatable and salable minerals into the Egan RMP.

DATES: Public comments on the preliminary issues and planning criteria will be accepted for 30 days following publication of this notice. In addition, two informal public workshops are scheduled for Wednesday, October 25, 1989 at the Ely BLM District Office,

Pioche Highway, Ely, Nevada and Thursday, October 26, 1989 at the Holiday Inn, 1000 E. Sixth Street, Reno, Nevada. Both meetings will begin at 7:00 p.m. each evening.

ADDRESSES: Written comments should be addressed to: Gene L. Drais, Area Manager, Egan Resource Area, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Gene L. Drais, Ely BLM District Office, telephone (702) 289-4865.

SUPPLEMENTAL INFORMATION: The proposed planning action will result in determinations as to which public lands will be leased for fluid and non-energy minerals, which lands will be open to locatable and material minerals, and what stipulations or conditions may be necessary to protect other resource values.

The anticipated issues for this proposed amendment include:

(1) Determination of which lands will be open to leasable, locatable and salable minerals;

(2) Determination of what stipulations or conditions are necessary on exploration or development of energy and mineral resources to protect, maintain and enhance other resources, including the protection of critical wildlife habitat, protection of T&E plant and animal species as well as mitigation against wildlife and migatory waterfowl kills; and

(3) Determination of what the impacts to the energy and minerals industries are from conditions placed on mineral leasing and mineral exploration and development by consideration of other resources.

Preliminary planning criteria for the Egan RMP energy and minerals amendment call for the following:

(A) Decisions proposed through this amendment will be in conformance with the decisions in the Egan RMP Record of Decision (ROD).

(B) BLM 1620 Manual, Supplemental Program Guidance (SPG), and BLM 1624 Manual, SPG for Energy and Mineral Resources, will be utilized to identify the energy and mineral resource determinations that will be made in this amendment.

(C) Determinations for other resources, as they apply to the energy and minerals amendment, will follow the BLM 1620 Manual SPG series for those resources.

(D) The Draft Bureau Fluid Minerals Handbook (H-1624-1) will be used to guide use of the SPGs for fluids as well as other mineral resources.

(E) Coal resources will not be considered in this amendment due to the known poor quality and marginal occurrence of this resource in the Egan Resource Area and no recent interest in its development.

(F) Management of Wilderness Review" (WSAs) for energy and minerals will continue under the "Interim Management Policy for Lands Under Wilderness Review" (IMP). Should all or part of any of the WSAs in the Egan Resource Area be released by Congress from wilderness study, management for energy and minerals will come under the scope of the determinations made for the Resource Area as a result of this amendment.

(G) Existing studies, the most current available inventories, current publications, and professional judgment will be used to determine potential occurrence for locatable, leasable and salable minerals as well as potential impacts.

(H) Reasonable development scenarios will be based on available data and trends and will be projected for the life of the Egan ROD (18 years or the year 2007).

(I) An interdisciplinary approach will be used to develop reasonable scenarios; analyze impacts, including cumulative impacts to natural and cultural resources, and the social and economic environment; identify alternatives and make determinations.

(J) Impacts of uses on adjacent or nearby non-Federal lands and non-public land surface over Federally-owned minerals will be considered.

(K) Impacts from energy and mineral development on public lands will be considered.

Alternatives proposed for consideration at a minimum include:

(1) No action—defined as a continuation of current management.

(2) Preferred Alternative—to be defined by BLM management following consultations with staff and input from the public.

An interdisciplinary team representing the following disciplines will be assigned to this planning effort: minerals, oil and gas operation, wildlife, range, wild horses and burros, lands, recreation, wilderness, cultural resources, soils, hydrology, and air quality. All documentation will be reviewed by the interdisciplinary team.

Public participation is an integral part of the planning process. It begins with this scoping period and public workshops and will continue throughout the development of this plan amendment. The next major opportunity for public review and comment will be offered with the publication of the draft plan amendment and draft supplemental EIS; however, the public is encouraged to comment or to become involved at any time during the planning process.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 89-23566 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-HC-M

[CO-942-09-4730-12]

Colorado: Filing of Plats of Survey

September 27, 1989.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., September 27, 1989.

The supplemental plat creating new lots 7 and 8, T. 1 S., R. 75 W., Sixth Principal Meridian, Colorado, was accepted August 31, 1989.

The plat representing the dependent resurvey of portions of the south and west boundaries and the subdivisional lines and the subdivision of certain sections, T. 13 S., R. 85 W., Sixth Principal Meridian, Colorado, Group No. 803, was accepted August 29, 1989.

The plat representing the dependent resurvey of portions of the west boundary and the subdivisional lines and the subdivision of sections 4, 5, and 6, T. 14 S., R. 85 W., Sixth Principal Meridian, Colorado, Group No. 803, was accepted August 29, 1989.

The plat (in three sheets) representing the dependent resurvey of portions of the Ninth Guide Meridian West (west boundary), the subdivisional lines, and certain mineral claims and the subdivision of section 7, T. 2 S., R. 72 W., Sixth Principal Meridian, Colorado, Group No. 889, was accepted August 29, 1989.

These surveys were executed to meet certain administrative needs of the Forest Service.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 3 and 4, Frac. T. 46 N., R. 5 W., New Mexico Principal Meridian, Colorado, Group No. 814, was accepted August 23, 1989.

The plat (in two sheets) representing the dependent resurvey of portions of the south, east, and west boundaries, the subdivisional lines, and certain tracts and the subdivision of certain sections, Frac. T. 47 N., R. 5 W., New Mexico Principal Meridian, Colorado, Group No. 814, was accepted August 23, 1989.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 8, 9, and 16, T. 7 N., R. 91 W.,

Sixth Principal Meridian, Colorado, Group No. 836, was accepted August 18, 1989.

The plat representing the corrective dependent resurvey of portions of the Base Line, T. 1 N., R. 91 W. and the subdivisional lines and the corrective survey of sections 3 and 4, T. 1 S., R. 91 W., Sixth Principal Meridian, Colorado, Group No. 866, was accepted August 18, 1989.

The plat representing the subdivision of section 6, T. 2 S., R. 80 W., Sixth Principal Meridian, Colorado, Group No. 878, was accepted August 18, 1989.

These surveys were executed to meet certain administrative needs of this Bureau.

All inquirites about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Darryl A. Wilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 89-23569 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-JB-M

[ID-943-09-4214-11; IDI-1637, et al]

Proposed Continuation of Withdrawals; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that 308.936 acres withdrawn in the Challis, Payette, and Sawtooth National Forests continue for an additional 30 years. The lands are now being used for three recreation sites and three administrative sites. The lands would remain closed in surface entry and mining, but have been and would remain open to mineral leasing.

DATE: Comments should be received on or before January 3, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

The U.S. Forest Service proposes that the existing land withdrawals made by public land orders and secretarial orders as shown below be continued for a period of 30 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The lands are described as follows:

Boise Meridian

(PLO 4449)

Phi Kappa Recreation Site
T. 6 N., R. 19 E.
Sec. 17, metes and bounds.
(PLO 4632)
Star Hope Recreation Site
T. 5 N., R. 21 E.
Sec. 22, metes and bounds.
(Secretarial Order dated February 29, 1908)
Antelope Administrative Site
T. 4 N., R. 23 E.
Sec. 24, a portion of the W½.
(Secretarial Order dated October 19, 1908)
Skelton Creek Ranger Station
T. 3 N., R. 12 E.
Sec. 15, metes and bounds.
(Secretarial Order dated November 14, 1908)
Shake Creek Administrative Site
T. 3 N., R. 11 E.
Secs. 8 and 9, metes and bounds.
(Secretarial Order dated November 14, 1908)
Big Smoky Administrative Site
T. 3 N., R. 13 E.
Secs. 2 and 11, metes and bounds.

The area described aggregates 308.936 acres.

The withdrawals are essential for protection of substantial capital improvements on the sites. The withdrawals closed the land to surface entry and mining, but not to mineral leasing. No changes in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued; and if so, for how long. The final determination of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: September 25, 1989.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 89-23621 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-66-M

[NM-940-09-4214-11; NM NM 0225991]

Continuation of Withdrawal and Reservation of Lands; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that a 160.50-acre withdrawal for the Columbine Campground (formerly Columbine Forest Camp) and Fawn Lakes Campground (formerly Fawn Lake Forest Camp) continue for an additional 20 years. The land will remain closed to mining, but has been and will remain open to the public land laws and mineral leasing.

DATE: Comments should be received by January 3, 1990.

ADDRESS: Comments should be sent to the New Mexico State Director, BLM, P.O. Box 1449, Santa Fe, New Mexico 87504-1449.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, 505-988-6071.

SUPPLEMENTARY INFORMATION: The Forest Service, U.S. Department of Agriculture proposes that the existing land withdrawal made by Public Land Order No. 3667, dated June 10, 1965, be continued for a period of 20 years for the Columbine Campground (formerly Columbine Forest Camp) and Fawn Lakes Campground (formerly Fawn Lake Camp) pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

Carson National Forest

Columbine Campground (formerly Columbine Forest Camp)
T. 28 N., R. 13 E. (unsurveyed), That portion of the following subdivisions lying south of New Mexico State Highway No. 38:
Sec. 11, E½E½E½NE¼, excluding HES 101;
Sec. 12, W½W½NW¼, E½NW¼NW¼, NE¼SW¼NW¼, and W½NW¼SW¼.
Fawn Lakes Campground (formerly Fawn Lake Forest Camp)
T. 29 N., R. 14 E. (partially unsurveyed),
Sec. 32, E½SE¼SE¼NE¼, E½NE¼NE¼SE¼, and NE¼SE¼NE¼SE¼;
Sec. 33, S½S½NW¼, N½N½NW¼SW¼, SW¼NE¼NW¼SW¼, S½NW¼NW¼SW¼, and NW¼SW¼NW¼SW¼.

The areas described aggregate 160.50 acres in Taos County.

The purpose of the withdrawal is for the protection of substantial capital improvements on the Questa Ranger District, Carson National Forest. The withdrawal closed the described land to mining but not to surface entry or mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in

connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: September 26, 1989.

Larry L. Woodard,

State Director.

[FR Doc. 89-23568 Filed 10-4-89; 8:45 am]

BILLING CODE 4310-FB-M

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service

Pacific Northwest Outer Continental Shelf (OCS) Task Force
Notice of Third Meeting: October 20, 1989

The Pacific Northwest OCS Task Force will meet October 20, 1989, from 8 a.m. to 5 p.m., at the Red Lion Inn/SeaTac, 8740 Pacific Highway South, Seattle, Washington 98188 (206-246-8600). This will be the third meeting of the task force, which was established January 19, 1989, in accordance with the provisions of the Federal Advisory Committee Act, P.L. No. 92-463, 5 U.S.C. Appendix 1. The meeting is open to the public.

The task force will discuss the Task Force Charter, the OCS Environmental Studies Program, and the work program and membership of a Technical Subcommittee that will be established to review and make recommendations on environmental studies.

The task force is composed of representatives of the Columbia River Intertribal Fish Commission, Northwest Indian Fisheries Commission, State of Oregon, State of Washington, and the Minerals Management Service. The purpose of the task force is to assist the Secretary of the Interior with resolution of OCS issues specific to the Northwest and help develop coordinated programs and policies related to the potential leasing and development of oil and gas resources of the OCS off Oregon and Washington.

Minutes of the meeting will be made available for public inspection and copying at the Minerals Management Service, Pacific OCS Region, Suite 244, 1340 West Sixth Street, Los Angeles, California 90017. For more information, contact John Smith or Ann Copsey at (213) 894-4154 or 7107.

Approved:

Barry Williamson

Director, Minerals Management Service
Barry Williamson

OCT 1

Date

[FR Doc. 89-23588 Filed 10-4-89; 8:45 am]
BILLING CODE 4310-MR-C

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-276

Certain Erasable Programmable Read Only Memories etc.; Certification of Formal Enforcement Proceeding to the Chief Administrative Law Judge for Hearing and Issuance of a Recommended Determination

In the matter of certain erasable programmable read only memories, components thereof, products containing such memories, and processes for making such memories.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has referred the formal enforcement proceeding instituted August 3, 1989, in the above- captioned investigation to the Chief Administrative Law Judge, or such Commission administrative law judge as she shall designate, for appropriate proceedings and the issuance, within six months of the date this notice is published in the **Federal Register**, of a recommended determination.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-252-1093.

SUPPLEMENTARY INFORMATION: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in section 211.56(c) of the Commission's Interim Rules of Practice and Procedure, 53 Fed. Reg. 33076 (Aug. 29, 1988), to be codified at 19 CFR 211.56(c).

On March 16, 1989, the Commission issued its final determination in the above-referenced investigation. The Commission determined that there was a violation of section 337 in the unlicensed importation and sale of certain EPROMs, and in particular certain EPROMs manufactured abroad for Atmel Corporation (Atmel) which infringe valid U.S. patents owned by complainant Intel Corp. (Intel). The Commission determined that a limited exclusion order and six cease and desist orders were the appropriate remedy. One of the cease and desist orders was issued to Atmel, and prohibited certain conduct by, *inter alia*, Atmel's officers and employees. The Commission's determination and orders became final on May 22, 1989, the President having determined to take no action with respect to them.

On July 11, 1989, complainant Intel filed a request for a formal enforcement proceeding. Intel alleged that Atmel and Jack Peckham, Atmel's Vice President of Sales, had violated and are violating the exclusion order and the cease and desist order issued to Atmel at the conclusion of the investigation. Intel requested that the Commission presume that Atmel EPROMs infringe the patents at issue in the investigation; allow liberal third party discovery; impose civil penalties; modify the exclusion order issued at the conclusion of the investigation; and issue such further relief as the Commission deems necessary and appropriate.

On August 3, 1989, the Commission docketed Intel's request, issued an Order instituting a formal enforcement proceeding, and transmitted the request to Atmel and Jack Peckham (hereinafter respondents) for a response.

On August 16, 1989, a response to the request was filed on behalf of Atmel and Jack Peckham. On August 23, 1989, Intel filed a request for leave to file a reply to the response, which the respondents oppose.

The Commission having examined Atmel's response to the request for a formal enforcement proceeding filed by Intel, and having found that issues concerning possible violation of the Commission's Orders issued March 16, 1989, remain, has determined to refer the enforcement proceedings to the Chief Administrative Law Judge for designation of a presiding administrative law judge, for discovery, hearing, and issuance within six (6) months of a recommended determination concerning whether Atmel Corporation and/or Jack Peckham are in violation of the Commission's Orders.

Copies of the Commission's Order and all other nonconfidential documents filed in connection with this formal enforcement proceeding 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.

By order of the Commission.

Issued: September 29, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-23553 Filed 10-4-89; 8:45am]

BILLING CODE 7020-02-M

[Investigation No. 332-280]

Surveys of Views on the Impact of Granting Most Favored Nation Status to the Soviet Union

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation, scheduling of hearing, and request for comments.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Thomas F. Jennings (202-252-1260), Trade Reports Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

Background: The Commission instituted investigation No. 332-280 following receipt of a letter dated September 19, 1989 from the Senate Committee on Finance, requesting that the Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide a survey of the views of business persons and recognized authorities on U.S.-Soviet trade relations on the impact of granting most-favored-nation (MFN) trade status to the Soviet Union on the business climate for U.S. Soviet trade. The Commission plans to forward its report to the Senate Finance Committee on January 16, 1990.

As requested by the Committee, in its report the Commission will seek to include an assessment of the commercial implications of granting MFN status to the Soviet Union, including the potential for U.S. agricultural exports, and opportunities for joint ventures. The Commission will also seek to identify products that would be most affected by the change in the trading status of the Soviet Union, and indicate the extent if any, the action is likely to have on the ability of the U.S. to compete with other exporters (i.e., Japan and the European Community) for sales in the Soviet market.

Public Hearing: A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW., Washington, DC 20436, beginning at 9:30 a.m. on November 6, 1989. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, no later than noon, October 23, 1989. Prehearing briefs (original and 14 copies) should be filed not later than noon, October 23, 1989.

Post-hearing briefs are due by 5:15 pm, November 13, 1989.

Written Submissions: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for public inspection during official business hours (8:45 am to 5:15 pm) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than November 13, 1989. All submissions should be addressed to the Secretary to the Commission at the Commission's office in Washington, D.C. Hearing inpaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202-252-1107.

By order of the Commission.

Issued: September 29, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 23475 Filed 10-4-89; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data for Use By Economics and Finance Department Association of American Railroads

The Commission has received a request from the Economics and Finance Department of the Association of American Railroads (AAR) for permission to use certain data from the Commission's 1972-1988 ICC Waybill Sample as input to a study of the cost associated with serious or catastrophic hazardous materials accidents which occurred during the 1982 through 1988 period. This will be an update of a study by AAR covering the period 1971 through 1981.

The Economics & Finance department is seeking permission to access the following data fields from the 1972 through 1988 ICC Waybill Sample to develop consistent measures of hazardous materials and chemical exposure: Seven digit STCC code, factored carloads, factored tonnage, factored intermodal unit count, short line miles, and estimates of actual route distance.

The full waybill Sample is the only data base available for this purpose. The Public Use File does not contain essential inputs including: The seven digit STCC and estimates of actual route distance.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR part 1244). From the waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data request while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party [Ex parte No. 385(Sub-No. 2), 52 FR 12415, April 16, 1987].

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of publication of this Notice in the **Federal Register**. They should also include all grounds for objections to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: James A. Nash, (202) 275-6864.

Noreta R. McGee,

Secretary.

[FR Doc. 89-23595 Filed 10-4-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; United States v. Chemix Corp

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Chemix Corporation*, Civil Action No. C 84-2898, was lodged with the United States District Court for the Northern District of Ohio, on August 28, 1989. This agreement resolves a judicial enforcement action brought by the United States against the defendant which alleged violations of the Clean Water Act in Berea, Ohio.

The proposed consent decree provides that the Defendant is in compliance with the Clean Water Act and for payment of $7,500 in settlement of the action.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Chemix Corporation*, D.J. Ref. 90-5-1-1-2137.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, 1404 East Ninth Street, Cleveland, Ohio and at the Region 5 Office of the Environmental Protection Agency, Office of Regional Counsel, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-23622 Filed 10-4-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; United States v. Hoechst Celanese Corp.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and

pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed Partial Consent Decree in *United States* v. *Hoechst Celanese Corporation*, was lodged with the United States District Court for the Western District of North Carolina. This Partial Consent Decree is the second and final consent decree regarding Celanese's Fiber Operations facility near Shelby, North Carolina. This action was originally filed on August 24, 1988, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, along with a Partial Consent Decree pertaining to cleanup of contaminated groundwater at the facility.

Under this Partial Consent Decree, Celanese agrees to implement the remedial action selected by the Environmental Protection Agency ("EPA") pertaining to cleanup of waste material and contaminated soil at the facility. This work will be performed under the oversight of EPA. A prior study performed by Celanese indicated that groundwater contamination will likely continue unless the source of the contamination is removed. Under this Partial Consent Decree, Celanese will excavate about 1800 cubic yards of sludge and contaminated soil and burn the material in an incinerator at the facility. Approximately 1800 cubic yards of other buried waste material and contaminated soil, not susceptible to incineration, as well as the incinerator ash, will undergo chemical fixation, to treat and solidify the material. The solidified and inert material will then be buried at the facility. In addition, approximately 110 cubic yards of stream sediments that have been contaminated at the facility will be excavated and also undergo chemical fixation and solidification and on-site disposal. The completed remedy will be monitored for a set period of time to ensure the effectiveness of the remedy.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Hoechst Celanese Corporation*, D.J. Ref. 90-11-3-342.

The proposed Consent Decree may be examined at the office of the United States Attorney, Post Office Building, Room 306, Asheville, North Carolina 28802 and at the Region IV office of the U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. A copy of the proposed Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1527, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Any request for a copy of the proposed Consent Decree should be accompanied by a check in the amount of $12 for copying costs ($0.10 per page) payable to "United States Treasurer."

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-23623 Filed 10-4-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Partial Consent Decree; Comprehensive Environmental Response, Compensation and Liability Act; United States v. Homer Rasmussen et al.

In accordance with Department Policy, 28 CFR 50.7, notice is hereby given that on September 25, 1989, a proposed Consent Decree in *United States*, v. *Homer Rasmussen, et al.*, Civil Action No. 88CV40010FL, was lodged with the United States District Court for the Eastern District of Michigan. The proposed Consent Decree sets forth a settlement with one of the defendants in this action, Hoover Universal, Inc., for a portion of the claims asserted by the United States for costs incurred by the United States at the Rasmussen Dump Site in Livingston County, Michigan. The proposed Consent Decree requires Hoover Universal to reimburse the United States for $295,838.37 in costs incurred at the Site. The Consent Decree resolves the liability of Hoover Universal for $295,838.37 of the United States, past costs. The remainder of the action will be dismissed without prejudice against Hoover Universal.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Homer Rasmussen, et al.*, D.J. Ref. No. 90-11-3-281 (Hoover settlement).

The proposed Consent Decree may be examined at the office of the United States Attorney, 113 Federal Building, 600 Church Street, Flint, Michigan 48504 and at the Region V Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1647, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-23624 Filed 10-4-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; United States v. Lima Demolition

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that on August 23, 1989 a proposed Consent Decree in *United States of America* v. *Gary Lauck, d/b/a Lima Demolition and A. B. Fink*, Civil Action No. 3:89 CV 7490 (N.D. Ohio), between the United States, on behalf of the United States Environmental Protection Agency ("U.S. EPA"), and Gary Lauck and A. B. Fink has been lodged with the United States District Court for the Northern District of Ohio. The Consent Decree resolves the claims of the United States against Gary Lauck, d/b/a Lima Demolition and A. B. Fink under the Clean Air Act, for violations of the National Emissions Standard for Hazardous Air Pollutants for asbestos ("asbestos NESHAP") and Section 112 and 114 of the Clean Air Act in connection with a demolition operation in Lima, Ohio. The settlement reflected in the proposed Consent Decree provides for compliance with the asbestos NESHAP and the Clean Air Act, payment of a civil penalty of $22,500 to the United States and payment of stipulated penalties should the decree be violated. In addition, defendants will be required to maintain and submit to U.S. EPA and Ohio prior notice and detailed reports concerning all future renovation or demolition activity.

The Department of Justice will receive comments relating to the Consent

Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *Gary Lauck, d/b/a Lima Demolition and A. B. Fink*, D.J. Ref. No. 90-5-2-1-1335. The proposed Consent Decree may be examined at the Office of the United States Attorney, 307 U.S. Courthouse, 1716 Spielbusch Avenue, Toledo, Ohio 43624, at the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1748, Tenth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 89-23625 Filed 10-4-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act; United States v. Macon et al.

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that on September 25, 1989, a proposed consent decree in *United States* v. *Macon, et al.*, Civil Action No. C-86-623-R, was lodged with the United States District Court for the Middle District of North Carolina. The complaint filed by the United States alleged that defendants were either owners or operators of the Macon and Dockery Sites ("the facility") or had generated and arranged for the transportation or disposal of hazardous substances at the facility; and that there have been releases of hazardous substances into the environment from the facility, which releases have caused the United States to incur response costs. The complaint sought the reimbursement of past costs which were incurred by the United States in responding to the actual or threatened releases. The settlement, as set forth in the consent decree, (1) requires the defendants to pay the sum of $1,585,100.00, which fully reimburses the United States for its past costs; (2) requires nine of the ten defendants sued by the United States to admit that in any subsequent action for future response costs and/or remedial action at the site, plaintiff has made out its *prima facie* case against them; (3) effects a modified *de minimis* settlement with two third-party defendants; and (4) dismisses, with prejudice as to past costs only, some of the individual owner defendants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Chief, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *Macon., et al.*, D.J. Ref. 90-11-3-126.

A copy of the proposed consent decree may be examined at the office of the United States Attorney for the Middle District of North Carolina, 326 Federal Building, 324 West Market Street, Greensboro, North Carolina; at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC. A copy of the proposed consent decree may be obtained in person from the Department of Justice at the above address or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. When requesting a copy, please refer to *United States* v. *Macon, et al.*, D.J. Ref. 90-11-3-126, and enclose a check in the amount of $5.40 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Barry Hartman,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-23626 Filed 10-4-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Labor has resubmitted to OMB for clearance the following collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This collection of information, as well as the form of which it is a part, is a currently approved collection with Control Number 1210-0016. This resubmission does not affect the status of that collection approval.

Title, Applicable Form, and Applicable OMB Control Number: Annual Return/Report of Employee Benefit Plans; Line Items 35(b) (iv) and (v) of Form 5500 and the Instructions for Form 5500, with regard to those line items; OMB Control Number 1210-0016.

Type Request: Resubmission of a currently approved collection.

Average Burden Hours/Minutes Per Response: 0 hours.

Frequency of Response: Annually.

Number of Respondents: 900,000.

Annual Burden Hours: 0 hours.

Annual Responses: 900,000.

Needs and Uses: Section 104(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The Form 5500 Series provides a standard format for fulfilling that requirement. Line items 35(b) (iv) and (v) of the Form 5500, as indicated in the applicable Form 5500 Instructions, are for the purpose of reporting realized and unrealized gain or loss using a current value approach.

Affected Public: Employee Benefit Plans.

Respondents Obligation: Mandatory.

Requests for Which Paperwork Reduction Act Approval Is Being Sought: (1) Form 5500 (1988) (54 FR 8647, March 1, 1989); Line Item: 35.

(b) Earnings on investments:

(iv) Net gain (loss) on sale of assets:

(A) Aggregate proceeds.

(B) Aggregate costs.

(v) Unrealized appreciation (depreciation) of assets.

(2) Instructions for Form 550 (54 FR 8663, March 1, 1989):

35b(iv). Column (b), total of net gain (loss) on sale of assets, should reflect the sum of the net realized gain (or loss) on each asset held at the beginning of the plan year which was sold or exchanged during the plan year and each asset which was both acquired and disposed of within the plan year.

Note: As current value reporting is required for the Form 5500, assets are revalued to current value at the end of the plan year. For the purposes of this

form, the increase or decrease in the value of assets since the beginning of the plan year (if held on the first day of the plan year) or their acquisition date (if purchased during the plan year) is reported in item 35b(v) below, with two exceptions: (1) the realized gain (or loss) on each asset which was disposed of during the plan year is reported in 35b(iv) (NOT in 35b(v)), and (2) the net investment gain (or loss) from certain investment arrangements is reported in item 35(vi).

The sum of the realized gain (or loss) of all assets sold or exchanged during the plan year is to be calculated by—

(1) Entering the sum of the amount received for these former assets in 35b(iv), column (a), line (A),

(2) Entering in 35b(iv), column (a), line (B), the sum of the current value of these former assets as of the beginning of the plan year, for those assets on hand at the beginning of the plan year, or the purchase price for those assets acquired during the plan year, and

(3) *Subtracting (B) from (A) and entering this result in column (b).*

A negative figure should be replaced in parentheses.

35b(v). Subtract the current value of assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of assets at the end of the year to obtain this figure. A negative figure should be placed in parentheses. Do not include assets which were disposed of within the plan year (reportable in 35b(iv) above) or certain investment arrangements (reportable in 35b(vi) below).

OMB Desk Officer: Ms. Diana Rowen.

Written comments and recommendations on the information collection should be sent to Ms. Diana Rowen at Office of Management and Budget, Desk Officer, Room 3001, New Executive Office Building, Washington, DC 20503, telephone number: 202/395-6880 by December 4, 1989.

A copy of the information collection proposal may be obtained from Mr. Paul Larson, Director, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210, telephone number: 202/523-6331.

Signed at Washington, DC, this 29th day of September, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89-23448 Filed 10-4-89; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirement Submitted to OMB for Review

Date: September 27, 1989.

The National Credit Union Administration has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reducton Act of 1980, Pub. L. 96-511. Copies of the submissions may be obtained by calling the NCUA Clearance Officer listed. Comments regarding information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NCUA, Administrative Office, Room 7344, 1776 G Street NW., Washington, DC 20456.

National Credit Union Administration

OMB Number: 3133-0016.

Form Number: None.

Type of Review: Renewal.

Title: Letter of Understanding and Agreement for Special Assistance.

Description: Federally-insured credit unions receiving special assistance are required to submit monthly financial reports.

Respondents: Federally-insured credit unions.

Estimated Number of Respondents: 150.

Estimated Burden Hours per Response: 2.78 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 5,004 hours.

OMB Number: 3133-0032.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Title: Records Preservatoin—12 CFR 749.

Description: Federally-insured credit unions are required to establish a Records Preservation program for storage of copies of vital records at an off-site location.

Respondents: Federally-insured credit unions.

Estimated Number of Respondents: 14,000.

Estimated Burden Hours per Response: 2 hours.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 28,000 hours.

OMB Number: 3133-0035.

Form Number: None.

Type of Review: Renewal.

Title: Trustees and Custodians of Pension Plans.

Description: A federal credit union acting as trustee or custodian of a Keogh plan or Individual Retirement Account must maintain individual records for each member/participant showing all transactions in detail.

Respondents: Federal credit unions.

Estimated Number of Respondents: 4,142.

Estimated Burden Hours per Response: 50 hours.

Frequency of Response: As necessary.

Estimated Total Reporting Burden: 207,100 hours.

OMB Number: 3133-0052.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Title: Federal Credit Union Membership.

Description: Persons applying for federal credit union membership must complete a membership application. Action taken on the application must be recorded and retained.

Respondents: Federal credit unions.

Estimated Number of Respondents: 2,250.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: One time.

Estimated Total Reporting Burden: 2,250 hours.

OMB Number: 3133-0053.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Title: Report of Officals.

Description: All federal credit unions are required to provide the names and addresses of the executive officers, members of the Supervisory Committee, Credit Committee, and Loan Officers to the NCUA within 10 days of their election/appointment.

Respondents: Federal credit unions.

Estimated Number of Respondents: 9,000.

Estimated Burden Hours per Response: .5 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 4,500 hours.

OMB Number: 3133-0057.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Title: Monthly Board Meeting Minutes.

Description: All federal credit unions are required to prepare and maintain full and correct records of all meetings of members and the board.

Respondents: Federal credit unions.

Estimated Number of Respondents: 9,000.

Estimated Burden Hours per Response: 3.25 hours.

Frequency of Response: 13 times per year.

Estimated Total Reporting Burden: 27,225 hours.

OMB Number: 3133–0059.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Title: Supervisory Committee Records.

Description: The Supervisory Committee of each federal credit union must prepare, maintain, and have custody of full and correct records of all actions taken by the committee.

Respondents: Federal credit unions.

Estimated Number of Respondents: 9,000.

Estimated Burden Hours per Response: 10 hours.

Frequency of Response: 2 times per year.

Estimated Total Reporting Burden: 90,000 hours.

OMB Number: 3133–0060.

Form Number: CLF 0001.

Type of Review: Renewal.

Title: Annual Stock Subscription Statement.

Description: Member credit unions annually determine their minimum legal stock requirement for another year of membership in the CLF.

Respondents: CLF member credit unions.

Estimated Number of Respondents: 259.

Estimated Burden Hours per Response: .50 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 131 hours.

OMB Number: 3133–0064.

Form Number: NCUA 7000–A, 7001, 7002, 7003 and 7004.

Type of Review: Renewal.

Title: Request for Funds—CLF.

Description: Forms used by each borrower in requesting a loan from the CLF.

Respondents: CLF member credit unions.

Estimated Number of Respondents: 25.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: Once per year.

Estimated Total Reporting Burden: 26 hours.

Clearance Officer: Wilmer A. Theard, (202) 682–9700, National Credit Union Administration, Room 7344, 1776 G Street NW., Washington, DC 20456.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 89–23461 Filed 10–4–89; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Meeting of the Advisory Committee for Atmospheric Sciences

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences (ACAS).

Date: October 23–24, 1989.

Time: 9:00 a.m.—5:00 p.m. each day.

Place: Room 642, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting Open—October 23 & 24—9:00 a.m. to 5:00 p.m.

Contact: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644 National Science Foundation, Washington, DC 20550, Telephone: (202) 357–9874.

Minutes: May be obtained from the Contact Person listed above.

Purpose: Discussion of Long-Range Planning.

Agenda:

—Remarks by the Director, NSF

—Remarks by the Assistant Director for Geosciences

—Long-range plan discussion

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–23603 Filed 10–4–89; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biochemistry; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Biochemistry.

Dated: Monday, Tuesday and Wednesday, October 23–25, 1989, from 9:00 am to 5:00 pm.

Place: The Inn at Foggy Bottom, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. H. T. Huang, Program Director, Dr. Marcia Steinberg, Program Director, Dr. Walter Hill, Program Director, Biochemistry Program, Room 325, Telephone (202) 357–7945.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for Biochemistry research proposals.

Agenda: To review and evaluate research proposal as part of the selection process for 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–23604 Filed 10–4–89; 8:45 am]

BILLING CODE 7555–01–M

Meeting of the Advisory Panel for Cell Biology Program

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cell Biology Program.

Date and Time: October 16–18, 1989, 8:30 a.m. to 5:00 p.m.

Place: Room 642, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Part Open—Closed 10/16—8:30 a.m. to 5:00 p.m., Open 10/17—12:00 p.m. to 1:30 p.m., Closed 10/18—8:30 a.m. to 5:00 p.m.

All other times the meeting is closed.

Contact Person: Dr. Maryanna P. Henkart, Program Director, Cell Biology Program, Room 321, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7474.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: Open—General discussion of the current status and future plans of the Cell Biology Program. Closed—To review and evaluate research proposals as part of the selection process for 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89–23605 Filed 10–4–89; 8:45 am]

BILLING CODE 7555–01–M

Meeting of the Advisory Panel for Cellular Biochemistry

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cellular Biochemistry.

Date/Time: November 2 and 3, 1989, Thursday, 9:00 a.m. to 5:00 p.m., Friday, 8:30 a.m. to 5:00 p.m.

Place: The River Inn, 924 25th Street NW., Washington, DC 20037, Columbia Suite, Room 105.

Type of Meeting: Closed.

Contact Person: Carter Kimsey, Cellular Biochemistry Program, Rm 321-F, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7987.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in cellular biochemistry and metabolism.

Agenda: To review and evaluate research proposals a part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23606 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Developmental Biology Advisory Panel; Meeting

Name: Advisory Panel for Developmental Biology.

Date and Time: October 25, 26, 27, 1989—8:30 a.m. to 5:00 p.m.

Place: The Chancellor Hotel, 433 Powell Street on Union Square, San Francisco, California 94102, Telephone: 415/362-2004.

Type of Meeting: Closed.

Contact Person: Dr. Frank C. Greene, Program Director, Developmental Biology Program, Room 321, National Science Foundation, Washington, D.C. 20550, Telephone: 202/357-7989.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in developmental biology.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for 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 the Government Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23607 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Advisory Committee for Earth Sciences

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences, NSF.

Date: October 30-31 and November 1, 1989.

Time: 9:00 a.m. to 5:30 p.m., October 30, 8:30 a.m. to 5:00 p.m., October 31, 8:30 a.m. to 4:30 p.m., November 1.

Place: The National Science Foundation, Room 543, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Open—October 31—8:30 a.m. to 5:00 p.m., November 1—8:30 a.m. to 4:30 p.m., Closed—October 30—9:00 a.m. to 5:30 p.m.

Contact Person: Dr. James F. Hays, Division Director, Division of Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550. Telephone: (202) 357-9591.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for research and research-related activities in the Earth Sciences.

Agenda: Closed—Oversight review of the Stratigraphy and Paleontology and Surficial Processes Programs, including examination of proposals, reviewer comments, and other privileged material.

Open—Discussion of Earth Sciences' (EAR) budgets, responses to previous oversight reports, Chandler Continental Lithosphere Workshop, cross-directorate programs, educational issues in Earth Sciences (especially pre-college activities), the Stratigraphy and Palentology Program, the Surficial Processes Program, and general discussion.

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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23608 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Advisory Panel for Ethics and Values Studies

The National Science Foundation announces the following:

Name: Advisory Panel for Ethics & Values Studies, NSF.

Date/Time: November 2, 1989, 8:30 a.m. to 5:00 p.m., November 3, 1989, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1242.

Type of Meeting: Part Open-Open November 3, 8:30 a.m. to 10:45 a.m., Closed Remainder.

Contact: Rachelle Hollander, Program Director, Ethics and Values Studies, National Science Foundation, Washington, DC 20550, Telephone (202) 357-9894 Room 312.

Minutes: May be obtained from the contact person at the above address.

Purpose of Panel Meeting: To provide advice and recommendations concerning support for research in Ethics and Values Studies in Science, Technology, and Society.

Agenda: Open—General discussion of approaches to "ethics" and "values" in the discourse of the physical and natural sciences, social sciences, and humanities disciplines.

Closed—To review and evaluate research proposals and projects as part of the selection process for 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23610 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Advisory Panel for Genetics

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetics, NSF.

Date/Time: Sunday, October 22, 1989, 12:00 p.m. to 5:00 p.m. Monday, and Tuesday, October 23, 24, 1989, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1242, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Philip Harriman, Program Director, Genetics, Room 325, Telephone (202) 357-9687.

Minutes: May be obtained from the contact person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for 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 proposals U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23609 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Advisory Panel for History and Philosophy of Science

The National Science Foundation announces the following:

Name: Advisory Panel for History and Philosophy of Science, NSF.

Date Time: November 17, 1989, 9:00 a.m. to 5:00 p.m. November 18, 1989, 9:00 a.m., to 4:00 p.m.

Place: The Holiday Inn, 17th Street at Rhode Island Avenue, NW., Washington, DC 20036.

Type of Meeting: Closed.

Contact: Ronald J. Overmann, Program Director, Studies in Science, Technology & Society, National Science Foundation, Washington, DC 20550, Telephone (202) 357-9894, Room 312.

Minutes: May be obtained from the contact person at the above address.

Purpose of Advisory: To provide advice and recommendations concerning research in the Studies in Science, Technology & Society Program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23611 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Advisory Panel for Human Cognition and Perception

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Human Cognition & Perception, NSF.

Date and Time: November 1-2, 1989, 9:00 a.m.—5:00 p.m.

Place: National Science Foundation, 1800 G. Street, NW., Room 1242, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Joseph L. Young, Program Director, Human Cognition and Perception, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357-9898.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in human cognition and perception.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: 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 the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23612 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; Advisory Panel for Linguistics

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Linguistics, NSF.

Date and Time: October 26-27, 1989, 9:00 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Rm 536, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Paul G. Chapin, Program Director for Linguistics, Room 320, National Science Foundation, Washington, DC 20550; (202) 357-7696.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in linguistics.

Agenda: CLOSED—To review and evaluate research proposals as part of the selection process for 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 the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Manager Officer.

[FR Doc. 89-23613 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences (ACOS); Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS), NSF.

Date: Oct. 16, 1989—8:30 A.M. to 5:00 P.M., Oct. 17, 1989—8:30 A.M. to 5:00 P.M.

Place: American Institute of Architects, Board Room, 1735 New York Avenue, NW., Washington, DC.

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 ocean research and its support by the NSF Division of Ocean Sciences.

Agenda

The Committee will hold a two day meeting. Following opening remarks and general introductions, the Committee

will hear presentations and status reports of current and topical interest from various officials and representatives from NSF, ACOS, and other organizations active in ocean sciences matters. The committee will hear progress reports from subcommittees on program oversight and human resources planning. The committee will discuss Long-Range Planning for Ocean Sciences, the impact of NSF budgets on this planning and take appropriate action concerning implementation procedures. 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.

Reason for late notice: Administrative Oversight.

Dated: September 29, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23456 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

Meeting; President's Committee on the National Medal of Science

The National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science, NSF.

Date: Friday, October 27, 1989.

Time: 9:00 a.m.—5:00 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Mrs. Lois J. Hamaty, Staff Assistant, President's Committee on the National Medal of Science, National Science Foundation, Washington, DC 20550. Telephone 202/357-7512.

Purpose of Committee: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The Determination made on September 25, 1989 by the Director of the National Science Foundation pursuant to the provision of section 10(d) of Public Law 92-463.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-23614 Filed 10-4-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271-OLA-4; ASLBP No. 89-595-03-OLA]

Change in Prehearing Conference Date

September 28, 1989.

Before Administrative Judges: Robert M. Lazo, chairman; Jerry Harbour; Frederick J. Shon.

In the Matter of: Vermont Yankee Nuclear Power Corp., Vermont Yankee Nuclear Power Station.

At the request of counsel for Vermont Yankee Nuclear Power Corporation (Licensee), with no objection by NRC Staff (Staff) and the State of Vermont (Petitioner), the date of the prehearing conference now scheduled to begin on Tuesday, November 14, 1989 is changed to Wednesday, November 15, 1989. The time and location remain the same: 9:30 a.m. at the U.S. District Court, Post Office and Courthouse Building, 204 Main Street, Brattleboro, Vermont.

It Is So Ordered.

For The Atomic Safety and Licensing Board.

Issued at Bethesda, Maryland, this 28th day of September 1989.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 89-23556 Filed 10-4-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 030-00582, 030-06886, 070-00053; License Nos. 06-00183-03, 06-00183-06, SNM-52; EA 89-131]

Yale University; Order to Show Cause Why Licenses Should Not Be Modified

I

Yale University (the licensee), New Haven, Connecticut 06520 is the holder of NRC License Nos. 06-00183-03, 06-00183-06, and SNM-52 issued pursant to 10 CFR parts 30 and 70. The licenses authorize the licensee to use licensed material for research and development, teaching and training of students, calibration of instruments, and performing irradiations. The licenses were most recently renewed on May 23, 1989, February 4, 1987, and May 23, 1989 and are due to expire on May 31, 1994, February 29, 1992 and May 31, 1994, respectively.

II

From May 30 to June 2, 1989, an NRC inspection was conducted at the licensee's facility to review the circumstances associated with an exposure in excess of regulatory limits which occurred at the facility and which was initially identified by the licensee on April 19, 1989 and reported to the NRC on May 1, 1989, after the magnitude of the dose became apparent to the licensee. The event involved a radiation exposure of 178 rem to the tip of the finger of one hand of an individual who was eluting iodine-125 from a protein separation column. The circumstances associated with the exposure are described in the Notice of Violation and Proposed Imposition of Civil Penalties (Notice) issued on this date.

In addition to this exposure, other violations of NRC requirements were identified at the facility. These violations, more fully described in the Notice, include: (1) Failure to wear gloves when handling radioactive material, (2) failure to perform bioassays at required intervals, (3) failure to perform required surveys, (4) failure to keep records of disposal of radio-active material, (5) failure to train laboratory personnel in radiation safety procedures, (6) disposal of radioactive material by unauthorized means, and (7) repeat occurrences of a previous violation involving eating and drinking in areas where radioactive materials are present.

III

The enforcement history at Yale University has been poor, as evidenced by the fact that twenty violations were identified during four NRC inspections of the radiation safety program conducted since 1984. Furthermore, enforcement conferences were conducted with licensee management at the NRC Region I offices and civil penalties were assessed for the violations identified during the NRC inspections in 1984 and 1988 (EA 84-99 and EA 88-157). Notwithstanding prior enforcement actions, the current violations, which are indicative of a breakdown in management control over licensed activities, demonstrate that the licensee has not effected adequate improvements in the administration and implementation of the radiation safety program.

The continued failure to effectively prevent violations demonstrates that the previous corrective actions taken by the licensee do not sufficiently address the

underlying causes of the violations and that additional requirements are necessary to ensure that the licensee's activities are conducted safely and in accordance with the terms of the licenses. Accordingly, I have determined that this Order should be issued to require the preparation of a comprehensive analysis of the deficiencies and requirements of the licensee's Radiation Safety Program, and a detailed plan for correction of the deficiencies, including an analysis of the human and financial resources required, and a timetable for implementation of the plan.

IV

Accordingly, pursuant to sections 81, 161b, 161c, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission regulations in 10 CFR 2.202 and 10 CFR part 31, it is Hereby Ordered That the Licensee Shall:

A. Within the time specified in IV.B. below, perform a comprehensive assessment of activities conducted under the licenses issued by the NRC and, based on the assessment findings, develop a detailed improvement plan for correcting identified deficiences and ensuring effective implementation of the radiation safety programs. The plan shall include a description of all changes to be implemented, the specific improvements in management oversight to be instituted, and additional resources to be dedicated, to upgrade the radiation safety program.

As a minimum, the assessment shall address the current status of, and the plan shall address improvements in, the following areas:

1. Procedures for reviewing and approving both new and renewal applications submitted to the Radiation Safety Committee for use of licensed material, including the procedures specifying:

a. the degree of detail contained in the application,
b. criteria on the need for pre-approval visit or contact with the applicant,
c. clarity of the requirements imposed as a condition of authorizing the application, and
d. follow-up to assure that those requirements are met.

2. Communications directed to individuals who use licensed material under the approval of the Radiation Safety Committee, including the clarity of the language used to indicate requirements that must be followed, and the methods used to assure that these requirements, as well as other communications, have been understood and are complied with.

3. Training, responsibilities, and performance criteria for members of the Radiation Safety Staff who perform audits and surveys of laboratories.

4. Oversight of individual users of licensed material by the surveyors, Radiation Safety Officer (RSO), and Radiation Safety Committee (RSC), including: observaton of performance, review of procedures, evaluation of training, and determination that the necessary instrumentation is available, and is used, to perform radiation safety tasks.

5. The human and financial resources that are provided to maintain the radiation safety program.

B. Within sixty days of the effective date of this Order, submit to the Regional Administrator, NRC Region I, for approval: 1) A summary of the assessment findings, 2) the improvement plan developed as a result of the assessment findings, and 3) a specific timetable for implementing the various aspects of the improvement plan.

C. Within seven days of the Regional Administrator's approval of the plan, begin implementation of the plan.

D. Three months after Regional Administrator's approval of the plan, and at intervals of three months thereafter until the plan is fully implemented, submit a written report to the Regional Administrator, NRC Region I, reporting on the progress in implementing the plan. Each report shall explain the reasons why any milestones in the timetable have been missed and provide, for review and approval of the Regional Administrator, a new date for completion of any milestone that has been missed.

The Regional Administrator, NRC Region I, may, in writing, relax or rescind any of these provisions for good cause shown.

Pursuant to 10 CFR 2.202(b), the licensee may show cause why this Order, in whole or in part, should not have been issued by filing a written answer under oath or affirmation within 30 days of the date of issuance of this Order, setting forth the matters of fact and law on which the licensee relies. The licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of this Order. If the licensee fails to file an answer within the specified time, or consents to this Order, this Order shall be final without further proceedings.

VI

The licensee or any other person whose interest is adversely affected by this Order may request a hearing within 30 days of its issuance. Any answer to this Order or request for a hearing shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Assistant General Counsel for Hearings and Enforcement, Office of the General Counsel, at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). Upon failure of the licensee or any person adversely affected by this Order to answer or request a hearing within the specified time, this Order shall become final without further proceedings.

Dated at Rockville, Maryland, this 26th day of September 1989.

For The Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 89-23557 Filed 10-4-89; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment drafts of two new guides planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guides are DG-1005, "Standard Format and Content for Decommissioning Plans for Nuclear Reactors," and DG-1006, "Records Important for Decommissioning of Nuclear Reactors;" they are intended for Division 1, "Power Reactors." The new guide DG-1005 is being developed to identify the information and format acceptable to the NRC staff for preparing and submitting decommissioning plans for nuclear reactors. The new guide DG-1006 is

being developed to provide guidance on retention of specific records on radiological conditions that could affect occupational and public health and safety during decommissioning.

The draft guides and their associated value/impact statements are being issued to involve the public in the early stages of the development of regulatory positions in these areas. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guides, including any implementation schedules. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by December 29, 1989.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 27th day of September 1989.

For the Nuclear Regulatory Commission.

R. Bosnak,

Deputy Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 89-23558 Filed 10-4-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27297; File No. SR-DTC-89-16]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Depository Trust Company Relating to Automation of Demands for Loan Collateral

The Depository Trust Company ("DTC") on August 15, 1989, filed a proposed rule change with the Commission under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The Commission is publishing this notice to solicit public comment on the proposal.

I. DTC's Description of the Proposal

DTC states in its filing that the proposed rule change would enable pledgee banks in DTC's Collateral Loan Program [1] to make electronic demands for collateral from its pledgors. Such demands would be issued via DTC's Participant Terminal System ("PTS"). [2]

DTC states in its file that in the past such collateral demands would have been submitted to DTC in paper form and DTC would have required from any pledgee bank demanding collateral: (1) a written representation concerning its right to the collateral, and (2) and an indemnity agreement. Accordingly, for this proposal, the PTS Reference Manual would be modified to include: (1) a standard representation, warranting that the pledgee has the right to the securities specified by its PTS collateral demands, and (2) a standard indemnity agreement, which holds harmless DTC for complying with any such instructions.

II. DTC's Rationale for the Proposal

DTC states in its filing that the proposal is consistent with the Act, particularly Section 17A(b)(3)(F) of the Act, because the proposal would improve the safeguarding of securities and funds in the control of a clearing agency.

III. Proposal's Effectiveness and Solicitation of Comments

The rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of the Act.

Interested persons may submit written comments within 21 days after notice is published in the **Federal Register**. Six copies of such comments should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal offices of the DTC. All submissions should refer to File No. SR-DTC-89-16 and should be submitted by October 26, 1989.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: September 27, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23483 Filed 10-4-89; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Section G of DTC's Participant Operating Procedures for procedures governing DTC's Collateral Loan Program.

[2] The demand for collateral contemplated here would be from a pledgee (a commercial bank) to a pledgor (typically a broker-dealer). This is not a routine financial transaction and ordinarily would occur in the case of a default by the broker. Telephone conversation between Carl Urist, Deputy General Counsel, DTC, and Thomas C. Etter, Attorney, SEC, September 22, 1989.

[Rel. No. 34-27287; File No. SR-GSCC-89-09]

Self-Regulatory Organizations; Immediate Effectiveness of Proposed Rule Change by Government Securities Clearing Corp. Relating to the Fee Structure for Government Securities Clearing Corp. ("GSCC")

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 25, 1989 GSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify GSCC's fee schedule as described in Section II. A. below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in 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

(a) The purpose of the proposed rule change is to amend the fee schedule for use of GSCC's netting service.

Currently, there is a basic netting fee of $1.00 per side that goes into the net, which fee is used to cover GSCC's expenses associated with the provision of netting services. However, as an incentive for Netting Members to participate in the netting operation as early as possible, a discount of 50 cents per side was established, to be effective during the interim period from the start-up of the Netting System until the point in time when GSCC determines that all Treasury Note issues on GSCC's file are eligible for netting.

This rule change eliminates the 50 cent per side discount of the basic netting fee. This action is being taken by the Board of Directors of GSCC in recognition of the fact that, as of August 18, 1989, the six Treasury Note issues, which comprise both the vast majority of secondary market trading in Treasury Notes and a major portion of secondary market trading in all Treasury securities were eligible for netting. Given this, and the fact that the five Government securities brokers that handle the large majority of brokered Government securities transactions are participating in the netting operation, the Netting Members that are now participating in netting are able to enjoy significant benefits from netting. The elimination of the discount at this time reflects the Board's determination, upon further consideration of this issue, that it is not appropriate to have the discount terminate only at the point in time at which all Treasury Notes are made eligible for the net, because, due to current operational constraints on the part of certain Netting Members, GSCC may not be able to make all Treasury Notes eligible for netting for several months. The end of the discount will, of course, enhance the level of netting revenue received by GSCC, which will be necessary to support the cost of providing the netting service.

(b) The proposed rule change does not substantially effect the current, equitable allocation of fees and charges and is, therefore, consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act") and the rules and regulations thereunder applicable to a self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received. Members will be notified of the rule filing, and comments will be solicited, by an Important Notice. GSCC will notify the Securities and Exchange Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The following rule change has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number GSCC–89–09 and should be submitted by October 26, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 25, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–23484 Filed 10–4–89; 8:45 am]

BILLING CODE 8010–01–M

[34–27311; File No. SR–MSTC–88–8]

Self Regulatory Organizations; Midwest Securities Trust Company; Order Approving a Proposed Rule Change On A Temporary Basis

September 28, 1989.

On June 30, 1989, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 ("Act"), [1] the Securities and Exchange Commission ("Commission") approved on a temporary basis a proposal by the Midwest Securities Trust Company ("MSTC") to enhance MSTC's File Transmission Service ("FTS") by allowing Depository Delivery Instructions ("DDI") [2] to be transmitted through FTS.[3] On June 30, 1989, the Commission granted an extension of the pilot program until September 30, 1989.[4] MSTC is currently transmitting DDIs via FTS on a pilot basis. The Commission is continuing its review of the proposal and is extending MSTC's pilot program in order to obtain further operational data concerning the safety and security of the proposal. This order extends the pilot program until March 31, 1990.

The Commission preliminarily finds that the proposed rule change is consistent with the requirements of section 17A of the Act in that it is designed to promote prompt and accurate clearance and settlement of securities transactions.

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[1] 15 U.S.C. 78s (b)(1).

[2] The DDI service allows firms to transmit delivery instructions to deliver securities to other MSTC participants and non-MSTC participants.

[3] *See* Securities Exchange Act Release No. 26418 (January 4, 1989), 54 FR 1040. The Commission extended this temporary approval until June 30, 1989 in Securities Exchange Act Release No. 26688 (April 3, 1989) 54 FR 14307 (April 30, 1989).

[4] *See* Securities Exchange Act Release No. 26995 (June 30, 1989), 54 FR 29127 (July 11, 1989).

It is therefore ordered, by authority of Section 19(b)(2) of the Act, that the proposed rule change (SR-MSTC-88-8) be, and is hereby, approved on a temporary basis until March 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23485 Filed 10-4-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27292; File No. SR-NYSE-89-13]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Specialist Contact With Issuers

On June 8, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt new Rule 106 and new Form 106.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 26969 (June 23, 1989), 54 FR 28139 (July 5, 1989).

The proposed rule change would adopt new Exchange Rule 106, which requires (1) quarterly contacts by specialist units, at least one of which is an in-person meeting, with a senior official, of the rank of Corporate Secretary or higher, of each of the specialist unit's listed companies, and (2) semi-annual contacts by specialist units, off the Exchange floor, with the 15 largest NYSE member organizations, any other member organizations that are significant customers of the specialist unit, as well as any other member organizations that request such contact. The proposed rule change also would adopt Form 106, which would be used to report semi-annually such contacts.

The Exchange stated that the purpose of the proposed rule change is to enhance the specialist's communication function by requiring that the specialist maintain frequent and personal contact with the listed companies and member firm companies that he serves. The Exchange's expectations regarding specialist performance are discussed in the Exchange's revised specialist job description, which was approved by the Commission on February 7, 1989 in Release No. 34-26523.[4] The Exchange's specialist job description emphasizes key expectation regarding specialist performance that are consistent with the competitive demands of an evolving market place. Two revisions of the specialist job description that were adopted in Release No. 34-26523 were requirements to extend an annual invitation to meet with representatives of issuers of the specialist's specialty stock and to meet regularly with appropriate representatives of the specialist's member firm customers.

Because there is at present no formal NYSE rule requiring that specialists maintain regular contacts with their member firm customers or their listed companies' officials, the Exchange has proposed new Rule 106. As described above, Rule 106 will require specialists to contact quarterly senior officials of the issuers of each of their specialty stocks. The Exchange believes that these quarterly contacts will help to foster an understanding of the specialist function, the operations of the Exchange market, and the markets that are maintained in the listed companies' stocks. In addition, as described above, Rule 106 will require semi-annual contacts between specialist units and NYSE member organizations. The Exchange states that the purpose of these semi-annual contracts is to discuss the service, operational, and competitive requirements of the member firms.

The Exchange also has proposed to adopt Form 106, which would be used by specialist units to report to the Exchange, on a semi-annual basis, contacts made with their listed companies and member firm customers pursuant to Rule 106.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6, and the rules and regulations thereunder.[5] By promoting a better understanding of the needs of listed companies and member organizations and fostering communications among specialists, listed companies, and the NYSE member firms, proposed Rule 106 and Form 106 are consistent with the requirements of Section 6(b)(5) of the Act, which requires that rules of an exchange be designed "to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest . . ." Moreover, the new requirements will help specialists to perform their functions better by receiving input on performance by issuers and member firms. In addition, proposed Rule 106 (and Form 106) implement a provision of the Exchange's specialist job description that was approved by the Commission in Release No. 34-26523.[6]

Rule 106 and Form 106 also are consistent with the requirements of Rule 11b-1(a)(2)(iv) under the Act, which mandates that the rules of a national securities exchange include "[p]rovisions stating the responsibilities of a specialist acting as a broker in securities in which he is registered."[7] By enumerating the contacts a specialist must make with listed companies and member firm customers, Rule 106 defined in detail for NYSE specialists their obligations and responsibilities under Section 11 of the Act[8] and Rule 11b-1 thereunder.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change is approved.[10]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Dated: September 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23486 Filed 10-4-89; 8:45 am]

BILLING CODE 8010-01-M

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4 (1989).

[3] The Exchange has requested that current NYSE Rule 106 be re-designated as Rule 106A so that the proposed new rule set forth in this filing can be designated as Rule 106. Letter from Brian M. McNamara, Managing Director, Market Surveillance, NYSE, to Mary N. Revell, Branch Chief, Exchange Regulation, SEC, dated July 7, 1989.

[4] *See* Securities Exchange Act Release No. 26523 (February 7, 1989), 54 FR 6631 (February 3, 1989), approving File No. SR-NYSE-87-38.

[5] 15 U.S.C. § 78f (1982).

[6] *See* note 4, *supra*.

[7] 17 CFR 240.11b-1 (1989).

[8] 15 U.S.C. 78k (1982).

[9] 15 U.S.C. 78s (b)(2) (1982).

[10] The Commission also approves the Exchange's request that current NYSE Rule 106 be re-designated as Rule 106A so that the proposed new rule approved herein can be designated as Rule 106.

[11] 17 CFR 200.30-3(a)(12) (1989).

[Rel. No. 34-27293; File No. SR-NYSE-89-24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Reporting of Extensions of Time for Payment/Delivery of Securities by Correspondent Broker-Dealers

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 September 8, 1989 the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization ("SRO"). 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 Exchange is proposing to require member organizations to file a monthly report indicating all correspondent broker-dealers whose overall ratio of requested extensions of time on payment/delivery of securities to total transactions for the month exceeds 2%.

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 NYSE 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 SRO 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

(a) The purpose of the report is to permit the Exchange to identify and effectively regulate instances where an excessive number of extension of time requests have been made by member organizations on behalf of their correspondent broker-dealers.

In order to allow the Exchange to assess the overall incidence and impact of requests for extensions of time for payment/delivery of securities transactions submitted pursuant to Federal Reserve Board Regulation T ("Reg T") and Securities Exchange Act Rule 15c3-3(n) by member organizations on behalf of accounts carried for other broker-dealers ("correspondents") and to take appropriate action to monitor and regulate extensions of credit for customers of broker-dealers, certain information will be required to be submitted to the Exchange monthly commencing ninety days after Commission approval of this filing. Member organizations will be required to file monthly reports indicating all correspondents whose overall ratio of extensions requested to total transactions for the month exceeds 2% (regardless of whether such requests were made to the Exchange or another self-regulatory organization).

The Exchange feels it is necessary to monitor extensions requested on behalf of correspondents because the credit is being extended by the member organization carrying the account. Since other SRO's that process extensions do not necessarily utilize the same standards, parameters and restrictions, the Exchange is requiring such reporting in order to allow it to determine the aggregate affect of extensions upon its members. In addition, while the ratio of extensions requested to transactions is computed by the Exchange from extension requests filed with it, the capability does not exist to make such calculations separately for each correspondent requesting extensions through a member organization.

(b) The report is consistent with the requirements of Rule 17d-1 under the Act in that the Exchange has been designated as having responsibility for examining its members for compliance with applicable financial responsibility rules such as Regulation T of the FRB and Rule 15c3-3 under the Act. It is also consistent with section 7(a) of the Act in that it is designed to prevent the excessive use of credit for the purchase or carrying of securities and supports the purposes of Regulation T of the FRB.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change And Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve 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. The 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 persons, 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 at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23487 Filed 10-4-89; 8:45 am]

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[Rel. No. 34-27294; File No. SR-NYSE-89-19]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Time Records of Orders

On July 25, 1989, the New York Stock Exchange, Inc. ("Exchange" or "NYSE")

filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,[2] a proposed rule change relating to time records of orders. The proposal would amend NYSE Rules 121 and 123 to require that time records are maintained for orders received by a specialist at the post or at a member's booth on the Floor from off the Floor, respectively.

Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 27107, August 8, 1989), and by publication in the **Federal Register** (54 FR 33999, August 17, 1989). The Commission received no comments on the proposed rule change.

The Exchange's proposal would amend NYSE Rule 121 to require that records be maintained as to the time an order is received by a specialist at the post. Currently, Rule 121 requires specialists to keep records of all orders placed with them, as well as all executions, modifications and cancellations of such orders for at least three (3) years. Although the rule does not currently contain an explicit time-recording requirement,[3] as a practical matter, the only orders directed to a specialist that do not have a time record are non-systematized, non-percentage orders. The proposed amendments to Rule 121 will impose a standard requirement that all orders be time recorded. The amendments to Rule 121 would also require that the specialist's records of orders and modifications or cancellations of orders include the name and the amount of the security and the terms of the order, modification or cancellation.

Similarly, the Exchange's proposal would amend NYSE Rule 123 to require that records be maintained as to the time an order is received at a member's booth on the Floor from off the Floor, since, at the present time, there are no requirements that members time-record orders received on the Floor from off the Floor. The amendments to NYSE Rule 123 will require that every member preserve a record, for at least three years, of every order received by the member on the Floor from off the Floor. The record would have to indicate the name and the amount of the security, the terms of the order and the time when the order was received on the Floor.

The Exchange contends that the purpose of the proposed rule change is to further enhance market surveillance procedures and to assist the Exchange in the reconstruction of market activity by providing the Exchange with the ability to pinpoint the time that each order is received by a specialist or is received at a member's booth on the Floor from off the Floor. The Exchange believes that its proposal is consistent with section 6(b)(5) of the Act,[4] which requires that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that the NYSE's proposed rule change is appropriately designed to require Exchange members and member organizations to document the trade information necessary to reconstruct detailed audit trails for trades executed on the Exchange. The Commission agrees with the Exchange that its proposal is consistent with section 6(b)(5) of the Act, which requires that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, because the proposed amendments to NYSE Rules 121 and 123 enhance the Exchange's ability to reconstruct market activity. The proposal also is consistent with section 6(b)(1) of the Act in that it will enhance the NYSE's surveillance programs.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: September 26, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23488 Filed 10-4-89; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] However, NYSE Rule 123A.30 does require that all percentage orders received by a specialist be time-recorded at the post location. Additionally, as a matter of procedure, all orders directed to a specialist via the Exchange's Super Designated Order Turnaround ("SuperDOT") System have a time record.

[4] 15 U.S.C. 78s(b)(5) (1982).

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1989).

[34-27296; File No. SR-OCC-89-11]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Changes Concerning Cross-Margining

September 26, 1989.

On January 23, 1989, the Options Clearing Corporation ("OCC") filed a proposed rule change (File No. SR-OCC-89-1) under Section 19(b) of the Securities Exchange Act of 1934 ('Act"),[1] to establish procedures for cross-margining positions cleared by OCC with positions cleared by the Chicago Mercantile Exchange ("CME"). On March 14, 1989, the Commission published notice of the proposal in the **Federal Register** to solicit comments.[2] One comment letter was received.[3] OCC amended the proposal on June 8, 1989,[4] and July 10, 1989.[5]

[1] 15 U.S.C. 78(b)(1) (1989).

[2] Securities Exchange Act Release No. 26607 (March 7, 1989), 54 FR 10608.

[3] *See* letter from Roger D. Rutz, President and Chief Executive Officer, Board of Trade Clearing Corporation ("BOTCC"), to Jonathan Katz, Secretary, Commission, dated June 30, 1989.

[4] OCC, among other things, amended Rule 602A to clarify that although settlement obligations resulting from the cross-netting of obligations to deliver and receive foreign currency arising from futures cleared by The Intermarket Clearing Corporation ("ICC") with obligations to deliver and receive foreign currency arising from the exercise of options cleared by OCC are subject to margin under Rule 602A, no other positions in futures cleared by ICC or settlement obligations arising from such futures are subject to margin under Rule 602A. OCC also filed amendments that were subsequently withdrawn, concerning the treatment of index participations. (*See* letter from Don L. Horwitz, General Counsel, OCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, SEC, dated September 5, 1989.) Rule 707 was amended to eliminate any inconsistencies with Section 8 of the OCC-CME cross-margining agreement. Rule 701 was amended to state that members are not required to establish separate bank accounts for cross-margining settlements. They may use the same bank account used for other settlements so long as the bank account is maintained at a clearing bank that has been designated by OCC as a cross-margining clearing bank. OCC's By-laws, Article VIII, Section 8, were amended to state that OCC's clearing fund may be used to pay funds owed to the CME as the result of a deficiency resulting from the liquidation of paired cross-margining accounts pursuant to the OCC-CME cross-margining agreement.

[5] This amendment expanded the scope of data OCC and the CME will share concerning common and affiliated members using cross-margining accounts under the terms of the OCC-CME cross-margining agreement. This agreement also was amended to add choice of law and choice of venue provisions. In addition, the amendment contains revisions to the proposed super margins and revisions to the form of account agreement applicable to affiliated clearing members to provide that OCC and the CME may treat not only the margin deposits in respect of cross-margining accounts, but also the positions in the accounts, as the joint property of the affiliated clearing members.

On September 5, 1989, OCC requested that the Commission defer consideration of the cross-margining pledge facility to permit OCC to complete discussions with pledgee banks, clearing members and other interested persons.[6] This Order approves all aspects of the proposal except the cross-margining pledge facility.

I. Description

A. Background

Securities exchanges and futures exchanges developed options and futures contracts on derivative products such as stock indexes to enable investors, among other things, to fix the price at which assets can be bought or sold in the future. One purpose of these derivative products is to provide methods to hedge exposure to certain economic risks.[7] As the number of derivative options and futures products has increased, so too have the opportunities for intermarket hedging. Intermarket hedging involves establishing a position in one market and a corresponding position in another market in the same or a similar instrument, so that a decrease in the value of one portion (*i.e.*, leg) of a hedged position is offset, to some extent, by a corresponding increase in value of the other portion (*i.e.*, leg) of the hedged position.[8] For example, a market participant with short option positions ("short calls") in the S&P 500 index, traded on the Chicago Board Options Exchange ("CBOE") and cleared at OCC, can hedge this position against loss by buying long S&P 500 futures contracts traded and cleared on the CME.[9]

Market participants must post margin with the OCC and the CME to trade in options and futures. In the example above, the OCC clearing member writer of the short call would have to post with OCC the premium plus an additional margin amount to protect OCC against adverse market movements. The writer also would have to post margin with the CME as a "good faith" deposit to secure the writer's performance on the S&P 500 futures contract. The writer also would be required to meet additional margin requirements at OCC each day that the market moved against its position,[10] and would be required to pay or receive (losses or profits) on the futures contracts because of any price movement.

B. The Cross-Margining System

1. Purpose and Operations

The proposed rule change is OCC's request for authorization to establish its second cross-margining system.[11] This proposal is designed to facilitate the cross-margining of positions in options cleared by OCC with positions in futures and commodity options cleared by the CEM.[12] OCC's current proposal would allow cross-margining of positions that qualify as "proprietary" positions under the rules of the CFTC [13] and as "non-customer" positions under the Act.[14]

OCC's cross-margining proposal is designed to address the problems members holding positions at OCC and CME face because each portfolio is margined separately without regard to the positions held in the other portfolio; thus, clearing members may be required to meet higher margin requirements than are warranted by the risk of the combined positions. To address this problem, OCC's proposal provides for the cross-margining of positions in options cleared by OCC with positions in options and futures cleared by the CME. To implement this proposal OCC and the CME have entered into a cross-margining agreement.

The agreement provides that firms would be permitted to elect cross-margining in two situations: (1) when a firm is a clearing member of both OCC and the CME and (2) when a pair of affiliated firms, one of which is an OCC clearing member and one of which is a CME clearing member, elect to use cross-margining.

In order to participate in cross-margining, eligible OCC/CME clearing members must establish cross-margining accounts ("x-m account") at each clearing orginization.[15] Each Joint Clearing Member and each pair of Affiliated Clearing Members must designate either OCC or the CME as its Designated Clearing Organization ("DCO"). For operational reasons, OCC initially will act as the DCO for all eligible clearing members.[16] The DCO will provide the Joint Clearing Member and each pair of Affiliated Clearing Members with a daily margin and settlement report and will perform settlement functions on behalf of itself and the other clearing organization in connection with the cross-margining accounts.[17]

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[6] *See* letter from Don L. Horwitz, General Counsel, OCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, SEC, dated September 5, 1989. The cross-margining pledge facility, when approved and implemented, would enable a Joint Clearing Member or a pair of Affiliated Clearing Members to grant a participating bank (secured party) a security interest in the positions held in the cross-margining pledge accounts, and their proceeds. OCC expected that clearing members would use this facility to borrow against the value of the options positions in the cross-margining pledge accounts to finance payment of variation margin with respect to the futures positions in the cross-margining pledge accounts. To protect OCC and the CME, the security interest of the secured party would be subordinate to that of OCC and the CME to the extent of obligations to the two clearing organizations arising from the cross-margining accounts. The Commission encourages OCC and the CME to continue to explore the possibility of providing pledge facilities in the future.

[7] *See* Board of Governors of the Federal Reserve System, CFTC, SEC, *A Study of the Effects on the Economy of Trading in Futures and Options* (December 1984).

[8] Intermarket hedges often are imperfect because the products used as hedges do not perfectly correlate with each other. For example, a hedge involving an S&P 100 option and an S&P 500 future may correlate closely, but not perfectly.

[9] The degree to which an options position is in- or out-of-the-money and its historical and implied volatility in large part determine the number of futures contracts necessary to hedge the options position.

[10] *See* Securities Exchange Act Release No. 23167 (April 22, 1986), 51 FR 16127.

[11] OCC's initial cross-margining system with the Intermarket Clearing Corporation ("ICC") was approved by the Commission in 1988. *See* Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567.

[12] The OCC-cleared contracts eligible for crossmargining are as follows: put and call options on the S&P 100 index, the S&P 500 index, the Major Market Index ("MMI"), the New York Exchange Composite Index ("NYSE Composite"), the Financial News Composite Index ("FNCI"), and the Institutional Index. Only two CME contracts are eligible for cross-margining. S&P 500 futures, and put and call options on S&P 500 futures.

[13] Use of the CME cross-margining account will be limited to proprietary transactions and positions of the clearing member and officers, directors, partners, and other related persons of the clearing member whose accounts on the records of the clearing member are "proprietary accounts" within the meaning of Section 1.3 (y) of the General Regulations promulgated by the CFTC under the Commodity Exchange Act.

[14] Use of the OCC cross-margining account will be limited to proprietary transactions and positions of the clearing member and officers, directors, partners, and other related persons of the clearing member which are not "customers" within the meaning of Rules 8c-1 or 15c2-1 under the Act.

[15] Each Joint Clearing Member or Affiliated Clearing Member is required to establish and maintain a cross-margining bank account at a clearing bank that has been designated by OCC and the CME as a cross-margining clearing bank. Members also will authorize the designated Clearing Organization to withdraw funds from this bank account in accordance with its rules for the purpose of making daily settlements.

[16] At such time as OCC and CME determine to permit clearing members to designate the CME as their DCO, the Commission expects OCC to file that change, for Commission review, under Section 19(b) of the Act. Such a change, however, may become effective on filing, if OCC determines, in accordance with Rule 19b-4(e) under the Act.

[17] The OCC and the CME have agreed to indemnify each other against claims incurred as the result of any action or failure to act by the other in connection with this service. Also, the OCC-CME cross-margining agreement provides that the agreement, and consequently the service, may be terminated without cause upon 30 days notice by either OCC or CME after the agreement has been in

Continued

The DCO will calculate margin requirements for x-m accounts on a daily basis in consultation with the other clearing organization.[18] OCC and CME will swap data concerning the positions in the x-m account after processing all exercises, assignments, and opening and closing trades that may result in a change in the x-m account positions. OCC and CME each will calculate margin requirement on the x-m account positions including futures, options, and futures options ("tentative margin requirement"). The results of those calculations will be used, as described below and as detailed in the cross-margin agreement, to determine the clearing member's x-m account margin requirement and the clearing member's deficit, if any, for collection the next morning.

OCC and CME will use similar procedures to determine the tentative margin requirement. OCC will use its Non-Equity Option ("NEO") margin system to calculate the premium and additional margin requirement for x-m account positions, grouping all of the X-m account positions by series, class and product groups. Currently, the NEO margin system classifies within one product group options on the following indices: S&P 100, S&P 500, MMI, NYSE Composite, FNCI, and Institutional Index. Each of those options are treated as separate class groups.[19] In calculating x-m account margin requirements, OCC will add positions in the CME's S&P 500 futures and puts and calls to the F&P 500 class group. Each delivery month the S&P 500 future will be treated as a separate series within the S&P 500 class group; similarly, each S&P 500 futures put and call with different expiration dates and strike prices will be treated as different series within the S&P 500 class group.

In calculating both premium and additional margin requirements, OCC will recognize spreads across contract months in the S&P 500 future, and will net long and short positions in different contract months. Currently, OCC's proposed spread margin rate is $100 per spread. Thus, if the clearing member was long 20 S&P 500 December futures and short 20 S&P 500 February futures, the futures spread margin requirement for these positions would be $1000 (20 spread at $100 each). OCC examines historical price data for each of these contract months and reviews the adequacy of its spread margin rate in light of its calculation of price volatility. OCC reviews data for the previous year and three months, and uses a 95% confidence interval in setting spread margin rates.[20]

OCC will calculate the premium margin requirement for each series in which the clearing member has a net short position. Because the futures are marked to the market daily by the CME, OCC does not calculate a premium margin requirement for nonspread futures positions. For other positions, including stock index options and options on stock index futures, this amounts to the current cost of liquidating open positions, based on the highest bid, ask or closing quotation for options, futures, or futures options. Thus, for example, if a clearing member had 20 short December S&P 500 futures calls and the highest asked premium quotation was 5, the premium margin requirement would be $100. As it does today in the NEO margin system, OCC calculates premium margin for net long positions, if unsegregated, and allows a premium margin credit for long positions in one series to offset a premium margin obligation in another series.

OCC then calculates the additional margin requirement for positions in the x–m account. As described in greater detail in Securities Exchange Act Release No. 23167, OCC calculates the cost of liquidating the portfolio of positions in each class group using theoretical values at a range of underlying asset prices.[21] As noted above, net positions in S&P 500 futures (after accounting for spreads across contract months) and puts and calls on the S&P 500 future will be included as series within the S&P 500 class group together with S&P 500 options.

OCC calculates theoretical values for each series position across a range of potential underlying asset prices both above and below the closing price of the underlying asset—at an underlying price equal to its closing value plus the margin interval, at an underlying price equal to its closing value minus the margin interval, and equal to any strike prices that happen to fall within the range. At each of these potential underlying asset prices, series net positions are marked to the corresponding "theoretical market" which, after comparison with the premium margin requirement or credit, represents the "theoretical profit" (additional margin credit) or "theoretical loss" (additional margin requirement) on the positions. The largest additional margin requirement or credit for any underlying asset price below the closing price and the largest additional margin requirement or credit for any underlying asset price above the closing price are chosen as the downside additional margin requirement or credit and the upside additional margin requirement or credit, respectively, for the class group.

In determining the x–m account tentative margin requirement, OCC will total the premium margin requirement for the broad-based index product group and the additional margin requirement for that product group. For class groups within the broad-based index product group, class group premium margin requirements or credits are offset on a dollar-for-dollar basis to arrive at a product group premium margin requirement or credit, and upside and downside additional margin requirements and credits are offset, with any additional margin credits in a class group first reduced by a percentage (reflecting the historical price relationship between the two products), to arrive at an upside and a downside additional margin requirement or credit. In essence, OCC looks at the highest cost of liquidating the product group portfolio across the range of prices, and that cost becomes the additional margin requirement.

OCC will transmit the tentative margin requirement for each x–m account to the CME, and vice-versa. If the margin requirements as calculated

effect for at least a year. The agreement also provides that after a default by either of the parties which is not promptly cured after written notice, the agreement may be terminted by the non-defaulting party after five business days notice. After termination, positions in each of the former cross-margining accounts in accordance with each clearing organizations rules and procedures.

[18] OCC and the CME will retain the authority to make intra-day margin calls for additional margin when necessary.

[19] A class group is a group of options which relates to the same underlying security. *See* Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567.

[20] OCC uses the same methodology to calculate its spread margin rates as it uses to calculate its margin intervals. *See infra*, note 21.

[21] (April 22, 1986), 51 FR 16212. OCC calculates theoretical value for series net positions within a class. The variables used in the pricing model include: (1) the margin interval, which defines the range of underlying security prices over which theoretical values will be computed; (2) the current marking price for each series, which OCC uses to derive an implied volatility used in the calculation; and (3) the days to expiration, dividend information, and risk free rate of return.

Margin intervals are calculated as the result of ongoing statistical analysis. OCC collects daily close-to-close price changes for each underlying security for the most recent three months and one year. OCC computes a standard deviation, which measures the variation around the mean price change, for each class group within each of these time periods. Assuming a normal distribution (*i.e.*, a symmetrical spread of frequencies out from the mean price change), OCC calculates a margin interval equal to 1.96 times the greater of either the three-month or one-year standard deviation to provide a 95% level of confidence that observations will lie within plus or minus this margin interval. OCC adjusts the margin interval to account for non-normal price distributions.

by the OCC and CME differ, the DCO will collect the average of the two requirements from the clearing member (*i.e.*, the DCO will add together the results of OCC's and CME's calculations and divide by two), unless the DCO, in consultation with the other clearing organization, determines to collect the higher of the two margin requirements.

OCC and CME also will collect from clearing members with x–m accounts "super-margin," if the positions in the x–m account, in essence, predominantly include only futures or options positions rather than inter-market hedge positions. The super margin requirement is based on the amount of a member's additional, or risk margin requirement. If the additional, or risk margin requirement exceeds certain levels, then a super margin requirement amount would be calculated by multiplying the incremental factor for the risk margin requirement by the risk margin requirement.[22] OCC and the CME developed the super margin requirement to discourage clearing members from maintaining positions in their cross-margining accounts that would generate large margin requirements, *i.e.*, maintaining large unhedged positions in their cross-margining accounts, so as the amount of unhedged positions increases above a threshold level, the super margin requirement increases. OCC and CME will retain authority to make intra-day margin calls for additional margin when necessary.

To satisfying their margin requirements with respect to x–m account positions, clearing members may deposit cash, U.S. Treasury securities, certain issues of common stock, and letters of credit. Each of these assets currently are accepted by either OCC or CME to satisfy margin requirements.

Clearing member deposits to satisfy margin requirements for x-m account positions will be held by OCC and CME, or their agents, subject to joint OCC–CME control. For example, cash deposits will be held by the DCO in the joint settlement account until returned to the clearing member and U.S. Treasury securities will be held in a joint custody account at a bank or securities depository. Common stock will be held in a joint account at the Depository Trust Company and letters of credit will be held by the DCO on behalf of both clearing organizations.[23] The DCO will value U.S. Treasury securities at the lesser of the value that would be given to them under either OCC or CME rules. Letters of credit must be in a form mutually acceptable to OCC and CME, OCC and CME must be joint beneficiaries, and any payment under the letter of credit must require the authorization of both OCC and CME. Issuers of approved letters of credit must meet the higher of OCC's or CME's standards under existing rules. Thus, for example, letters of credit on deposit for x-m accounts cannot be concentrated in one issuing institution.[24]

Settlement will occur on a daily basis through a joint OCC–CME settlement account.[25] OCC and the CME will exchange reports on positions and settlements early in the morning on each business day. After they exchange reports, OCC and the CME will calculate the members' margin requirements. The DCO for each Joint Clearing Member or pair of Affiliated Clearing Members would then issue a Margin and Settlement Report which would state the margin requirements and the netted settlement obligations. Joint Clearing Members and pair of Affiliated Clearing Members will conduct settlement activity through the OCC and the CME's joint settlement accounts.[26]

OCC and the CME have agreed to provide each other with information concerning their members participating in cross-margining. Each organization will notify the other if it: places a member under surveillance; [27] requires a member to provide more frequent reporting of financial information; requires a member to provide additional capital (and provide the other clearing organization with the deadline for meeting the requirement); requires a member to meet higher margin requirements; or issues a special intra-day margin call (and provide the other clearing organization with the amount of additional margin required). In addition, each clearing organization will provide the other (upon request) with information concerning the amount of margin any member must deposit and the dollar amount of the member's current settlement obligations (after considering the variation margin requirements, premiums, option exercises, and any other settlements).

Each clearing organization will notify the other of any disciplinary actions taken against a member involving non-compliance with financial or financial reporting requirements or violations of the clearing organization's rules. Each organization also will notify the other if a member defaults in any settlement obligation, other than routine delays of not more than 48 hours in the physical delivery of underlying interests. In addition, each organization will provide the other (upon request) with additional information concerning any of the conditions or requirements discussed above and notify the other of when any of the conditions or requirements listed above have ceased.

2. Protection Against Participant Defaults

In the event of a member's default, OCC and the CME will work together to resolve the situation and, as discussed below, have established procedures in the cross-margining agreement to provide a framework for taking the

[22] The super margin requirements are as follows: for clearing members with a base margin requirement of 0–$16 million, the increment factor is 0.00, for clearing members with a base margin requirement of over $16–$32 million, the incremental factor is 0.25, for clearing members with a base margin requirement of over $32 million—$48 million, the incremental factor is 0.50, for clearing members with a base margin requirement of over $48–$64 million, the incremental factor is 0.75, and for clearing members with a base margin requirement of over $64 million, the incremental factor is 1.00. *See*, Amendment No. 1 to the Cross-margining agreement, Exhibit F.

[23] Any common stock which has a market value greater than $10 per share and which is traded on a national securities exchange or is traded in the over-the-counter market and designated as a National Market System Security is eligible for deposit. Such stocks will be valued on a daily basis at not more than 50% of their current market values.

[24] Among other things, letters of credit accepted by OCC and the CME must permit the clearing organization (the beneficiary of the letter of credit) to draw on the letter of credit immediately. *See* OCC Rules 604 and 705.

[25] The OCC–CME cross-margining agreement defines the joint settlement accounts as bank accounts established in the names of both clearing organizations at the cross-margining clearing banks for the purpose of making daily money settlements and holding cash margin with respect to the cross-margining accounts. All transfers out of the joint settlement account require the approval of both the OCC and the CME.

[26] The following is an example of the settlement process. OCC will perform the margin as well as the pay and collect calculations to determine the net settlement instructions. OCC will transmit this information via computer to the CME for its review. OCC also will draft and sign payment instructions for the settlement banks and fax them to the CME for its review and signature. The CME will sign the settlement instruction and fax the signed copy to OCC, so that OCC will know that the CME agrees that the settlement instructions are correct. Then OCC will fax the document with both signatures to the settlement banks. (Either the OCC or the CME may submit the settlement instructions to the settlement banks providing the appropriate individuals' signatures from both organizations appear on the settlement instructions.) Settlement banks will receive debit and credit instructions before 5:40 a.m. Central Standard Time (CST). All members must pay their settlement banks by 6:40 a.m. (CST). Members receiving funds from OCC will receive credits from OCC by 10 a.m. (OCC's usual time for providing credits to its members) and the members receiving funds from the CME will receive credits by 6:40 a.m. CST (CME's usual time for providing credits to its members).

[27] The OCC will notify the CME if it places a member on its Watch Level III or Watch Level IV lists. The CME will notify the OCC if its Audit Department places a member on its high risk list.

appropriate actions. The primary protection against losses arising from a default in a cross-margining account is the OCC's and the CME's first priority lien and security interest in all positions in the cross-margining accounts, all funds and securities deposited to satisfy margin requirements, and all proceeds resulting from the liquidation of these accounts, as security for the obligations of the Joint Clearing Member or pair of Affiliated Clearing Members.

OCC may suspend an OCC member who defaults on a cross-margining settlement obligation or margin payment obligation.[28] After OCC or the CME suspends the member (and notifies the member of its suspension), the clearing organization initiating the suspension will notify the other clearing organization of the suspension.[29] Both OCC and the CME will liquidate the contracts in the suspended member's cross-margining account, (unless both clearing organizations agree to delay liquidation of some or all of those contracts).[30] OCC and the CME will coordinate the liquidation of the contracts so that both legs of any spread or hedged position can be closed out simultaneously to the extent possible. Both OCC and the CME will use the proceeds from the liquidation of the contracts to pay for liquidation expenses; the remaining funds will be deposited in a cross-margining liquidating account.[31] The two clearing organizations also will convert to cash the deposits in the suspended member's margin account and deposit the funds in the liquidating account.[32]

The funds in the cross-margining liquidating account will be applied first to offset any liquidating deficits in the cross-margining accounts at the OCC and the CME. If the cross-margining liquidating account funds are insufficient to offset the net liquidating deficit (*i.e.*, the liquidating deficit at one clearing organization plus any liquidating deficit or minus any liquidating credit at the other), OCC and the CME will share the shortfall equally (*i.e.*, the clearing organization with the smaller liquidating deficit or a liquidating credit will pay to the other clearing organization an amount sufficient to equalize the loss borne by each clearing organization at 50%).[33] OCC or the CME will next look to the defaulting member's cross-margining clearing fund to recover the loss.

If there is a surplus of funds in the cross-margining liquidating account after the OCC and the CME have been paid, each clearing organization will be entitled to retain or receive up to 50% of the surplus to satisfy losses it has incurred from the suspended member's other accounts.[34] If the losses OCC or the CME incurred as a result of the suspended member's other accounts are less than 50% of the surplus, then the clearing organization will be entitled to retain or receive an amount equal to these losses and the other clearing organization (which had losses in excess of 50% of the surplus) will retain or receive the balance of the surplus up to the amount of its other losses. If there are any funds left after all of the above claims have been satisfied, they will be provided to the defaulting member.

If a deficiency remains after OCC has suspended a member and had liquidated its accounts as discussed above, OCC may use its clearing fund to satisfy the loss; *i.e.*, this loss will be treated in the same manner as any other loss. Thus, to the extent OCC or the CME suffer losses in the cross-margining accounts that cannot be satisfied from cross-margining account assets, OCC may assess OCC clearing members *pro rata*, to cover those losses. The CME's rules also provide that the CME may use its clearing fund (called the pool of deposits) and assess its members in the same fashion to cover its share of the losses.[35] If an OCC member defaults on a non-cross-margining account, OCC may suspend the defaulting member, must notify the CME of its action, and may liquidate all of its accounts, including the cross-margining account (unless it decides to delay liquidation of some or all of those contracts).[36] OCC will apply the proceeds from the liquidation to pay for the liquidation expenses and to recover the loss. If a default remains, OCC will look to the defaulting member's clearing fund contribution to recover the loss. If a deficit still remains, OCC will look to its aggregate clearing fund (in accordance with its loss recovery procedures) to recover the loss. Because this loss originated from a non-cross-margining account, OCC may not look to the CME's guarantee fund to recover the loss. If a CME member suffered a loss in a non-cross-margining account, the CME would take the same steps described above to recover the loss. Because this loss originated from a non-cross-margining account, the CME may not look to the OCC's clearing fund to recover the loss.[37]

II. OCC's Rationale

OCC believes that the proposal is consistent with the Act because it implements a cross-margining system which would enhance the safety of the clearing system while providing lower clearing margin costs to OCC's Clearing Members. Lower clearing margin costs are imposed because cross-margining permits the clearing organization at which the "short" leg of an intermarket hedge position is held to accept the "long" leg as security for the short leg in place of conventional forms of margin. This enhances the security of the clearing system because when an obligation is hedged by a position on the other side of the market based on the same or a smaller underlying asset, an increase in the cost of liquidating the obligation should be offset by a corresponding increase in the value of

[28] According to OCC, the CME also will suspend a member for defaulting on its settlement or margin payment obligations. Section 8 of the OCC–CME cross-margining agreement provides that both organizations will take steps, described above, to deal with a member's default.

[29] *See* Section 8 of the cross-margining agreement which provides that if one clearing organization suspends a member, or its affiliated clearing member, the other clearing organization shall liquidate the suspended member's, or its affiliated clearing member's, contracts, unless the two clearing organizations agree not to liquidate some or all of the contracts.

[30] *See* Securities Exchange Act Release No. 27104 (August 8, 1989), 54 FR 33642 (August 15, 1989).

[31] The cross-margining liquidating account will be established by the OCC and the CME at a bank in both organizations' names.

[32] The OCC and the CME may elect not to convert letter of credit commitments to cash if the issuer agrees in writing to extend its irrevocable commitment in a manner satisfactory to both clearing organizations and to provide funds as needed (up to the limit on the letter of credit) to meet anticipated disbursements from the cross-margining liquidating account.

[33] Both the OCC's and the CME's rules provide that their respective clearing funds may be used for this purpose.

[34] The cross-margining agreement provides for this loss allocation scheme even in the unlikely event that the cross-margining account contains predominately options or futures positions. Because the cross-margining account is designed for intermarket hedge positions as opposed to predominately futures or options positions that could be maintained in other CME or OCC accounts, OCC and the CME anticipate that this event is unlikely. In addition, OCC and the CME will impose super margins on cross-margining accounts which have excessive unhedged positions (*see supra*, note 22) to discourage firms from using the cross-margining account for unhedged positions that could be maintained in other accounts. Moreover, OCC and the CME retain authority to require additional margin, if necessary, beyond original and super margin requirements.

[35] *See* CME Rule 802.

[36] *See* CME Rule 1102 and 1104.

[37] *See* OCC's By-laws, Article VIII, Section 5(b). This by-law does not authorize OCC to use its clearing fund to satisfy a CME member's loss obligations in non-cross-margining accounts which resulted from a loss other than the liquidation of paired cross-margining accounts.

the hedge position. Cross-margining also has the potential for reducing clearing system exposure in the event of a clearing member default.

III. The Comment Letter and OCC's Response

As noted above, the Commission received one comment letter from the Board of Trade Clearing Corporation ("BOTCC"). In that letter, BOTCC urged the Commission to condition approval of OCC's cross-margining proposal on OCC's agreement to participate in the Intermarket Information Sharing System ("IISS") established to facilitate information sharing among members of the futures markets.

OCC and the CME have established an information sharing agreement which provides that each organization will notify the other if a member incurs financial difficulties or defaults on its settlement obligations.[38] In addition, each clearing organization has agreed to provide the other with additional information concerning members, including position information on the members' non-cross-margining accounts, upon request. Also, OCC has agreed to participate in the IISS upon full approval of the CME's proposal by the Commodity Futures Trading Commission ("CFTC") and to begin transmitting data to IISS within 30 days of the CFTC's approval of the CME's cross-margining proposal.[39] The Commission believes that, although the OCC and CME information sharing arrangements adequately address the needs of this proposed rule change, OCC's agreement to join IISS resolves the concerns of this commentator.

IV. Discussion

The Commission believes that the proposal is consistent with Section 17A of the Act. As discussed below, the Commission believes that the proposal is designed to assure the safeguarding of funds and securities in OCC's possession or for which it is responsible and will promote the prompt and accurate clearance and settlement of securities transactions.

The concept, costs and benefits of cross-margining systems has been the subject of considerable debate during the last three years, following OCC's initial proposal to establish intermarket cross-margining. On January 31, 1986, ICC and OCC petitioned the CFTC to amend customer segregation rules under the Commodity Exchange Act to permit, primarily, options market makers and other market professionals whose accounts are carried as "customers" on the books of futures commission merchants to participate in cross-margin systems. That petition was published in the **Federal Register** on November 13, 1988,[40] and drew substantial comment from boards of trade, clearing organizations, securities and commodities clearing members, and lawyers representing market professionals.

Support for cross-margining systems has been substantial. For example, *The Report of President's Task Force on Market Mechanisms* (the "Brady Report") noted that the absence of an effective cross-margining system for futures and securities options markets contributed to payment strains in October 1987. Accordingly, the Brady Report recommended that cross-margining be allowed, permitting market participants with an investment in futures to receive credit for a hedged investment in stocks or options.[41] The President's Working Group on Financial Markets in its Interim Report concurred, recommending that the SEC and CFTC not only approve the OCC/ICC cross-margining program but facilitate cross-margining among other clearing agencies.[42]

Supporters of cross-margining systems argue that cross-margining reduces market exposure to clearing organizations on open positions in clearing member accounts because it substitutes for cash margin deposits from clearing members assets that vary directly in value with those open positions. Because a cash deposit cannot appreciate in value, supporters argue, if the cost of liquidating an open short position increases precipitously, the clearing organization can protect itself only if it demands additional fixed assets to cover the increased cost of a potential liquidation. This, supporters argue, can exacerbate clearing member liquidity in volatile markets. Cross-margining advocates argue that cross-margining systems substitute an asset that either pays cash on a daily basis or appreciates in value (a long futures option or a futures contract that entitles the holder to receive cash profits on a daily basis or a non-equity option or futures option that can appreciate in value) in a predictably direct relationship to the increasing liability of an open short position, thereby reducing the market exposure of clearing corporations in volatile markets.[43]

Most commentators acknowledge that cross-margining systems can reduce risks to clearing organizations from member defaults by centralizing control over both legs of an inter-market, hedged portfolio. Several commentators, however, question whether cross-margining systems can substantially reduce cash flows during volatile markets.[44] In essence, these commentators focus on the need for cash to meet futures variation margin payments when it is the futures leg of an intermarket hedge that declines in value and the options leg apprciates in value. In that circumstance, because options contracts appreciate in value but do not pass through profits and losses on a daily basis, the clearing member holding the option must finance, from his own or borrowed funds, payment on the futures contract.

Cross-margining advocates counter with a two-pronged response. First, they note that the need for cash occurs only if the options leg increases in value. Second, they argue that establishing options pledge facilities to permit clearing members to borrow from third party lenders (using the appreciating options as collateral) can facilitate, significantly, clearing member ability to meet futures variation margin payment

[38] *See* text, *supra*, at note 27.

[39] *See* letter from Wayne P Luthringshausen, Chairman of the Board, OCC and ICC, to Ms. Andrea M. Corcoran, Director, Division of Trading and Markets, CFTC, dated September 5, 1989.

[40] 51 FR 41117.

[41] *See* Brady Report at 66 (January 1988).

[42] *See, Interim Report of the President's Working Group on Financial Markets*, Appendix D at 11 (May 1988).

[43] *See* Behof, John P., The Financial Markets Unit, Department of Supervision and Regulation, The Federal Reserve Bank of Chicago, *Issue Summary: Intermarket Cross-Margining for Futures and Options* at 1 (May 1989), which concluded that "[the OCC/CME and OCC/ICC cross-margining systems] are a step in the right direction in avoiding a liquidity crisis similar to the one experienced in October 1987."

[44] For example, Roger D. Rutz concluded, based on data on dollar settlements for joint clearing members of BOTCC and CME, that a linked settlement system such as cross-margining would not have reduced significantly bank transfers by joint members during the Market Break. *See* R. Rutz, *Clearance, Payment, and Settlement Systems in the Futures, Options, and Stock Markets* at 37 (February 1989). The Commission believes Rutz's study is inconclusive because it only includes intra-market (*i.e.*, futures and options on futures) rather than intermarket products. OCC conducted a study using securities products cleared by OCC and futures products cleared by ICC to determine whether cross-margining enhances liquidity. OCC concluded that, with cross-margining, one OCC/ICC joint member with large intermarket positions in late October 1987 would have experienced initial margin reductions ranging from 37–100% and total financing reductions ragning from 27–100 percent for positions held at OCC and ICC. OCC further concluded that if positions held by the member at CME and Chicago and Board of Trade were included, variation and initial margin requirements as well as financintg needs would have been reduced further. *See Cross-Margining and Futures-Style Margining: The Facts*, Timothy F. Hinkes, Commodities Law Letter, Volume VIII No. 9 & 10 (November/December 1988).

obligations. Third, they argue that because cross-margining can reduce clearing member margin deposit requirements from 38–50%, these funds can be used (or the assets pledged) to satisfy a significant percentage of the variation margin payment obligation.

The Commission has been a strong supporter and proponent of the concept of cross-margining systems for the last three years. In its comments to the CFTC on ICC's cross-margining petition, the Commission noted that a well designed cross-margining system would free up capital through reduced margin requirements while maintaining or increasing clearing organization safeguards. The Commission further noted that cross-margining would reduce clearing costs by integrating clearing functions and reduce clearing organization risk by centralizing asset management. Furthermore, the Commission stated that cross-margining may promote harmonization of broker-dealer and futures commission merchant liquidation procedures.[45]

The Commission believes that the OCC-CME cross margin system will increase the safety and reliability of clearance and settlement systems. For many years, commodity clearing organizations have reduced clearing member margin requirements on the basis of options positions at OCC, even though those clearing organizations had no rights in those positions (*i.e.*, liens or perfected security interests) and would not realize any benefit from those positions in the event of a clearing member default. In many respects, the OCC–CME cross-marginig system provides greater safety for commodity clearing organizations for existing margin policies and practices, because it will provide the CME with a perfected security interest in OCC options in clearing member x-m accounts.

The Commission also believes that cross-margining can reduce clearing member cash-flows substantially, even if it is not a panacea for the liquidity crisis that occurred during October 1987. Other solutions to intermarket cash flows may exist, but cross-margining systems appear to offer a substantial improvement in the clearance and settlement of intermarket positions. Moreover, it appears that cross-margining systems can be established with substantially less structural and business changes than other proposed solutions, such as converting exchange-traded options margin systems to pass through daily profits and losses (commonly known as futures style margin).[46]

Commentators also question whether the historical price relationship between futures and options legs of an intermarket hedge will remain stable during volatile markets. The Commission recognizes that, even in normal market conditions, the prices of products that have moved in tandem historically may diverge, for a variety of reasons, such that the long and short legs of a cross-product hedge would be liquidated at such discrepant prices that a loss to the clearing organization could result. The Commission believes certain measures can ensure sufficient price correlations among Class Groups. For example, under the ICC/OCC cross-margining program, ICC reviews correlation coefficients for Product-Group components at least monthly.[47] ICC's Market Surveillance Group monitors the Product Group components daily and, in the event price correlations begin to break down, will institute a formal review more often than monthly when market conditions dictate. If the correlation changes, ICC adjusts Product Group percentage accordingly, or if the coefficient of determination falls below 70%, ICC changes the composition of the Product Group. Furthermore, ICC's margin system provides haircut for margin audits across product groups.

The Commission believes that the OCC's proposed cross-margining system recognizes these risks and that OCC has taken steps to address these risks. Among other things, OCC will establish haircuts (*i.e.*, deduct a percentage of the value) for class group margin credits inproduct groups when appropriate.[48] OCC will review the haircuts on a regular basis to ensure that the correlations are adequate and will change the composition of the product groups if the correlations diverge too much.[49]

The Commission has reviewed the adequacy of OCC's and CME's projections against a clearing member default and, in particular, whether OCC's and CME's liens will withstand judicial scrutiny in the event of a clearing member insolvency proceeding. The Commission is satisfied that OCC and CME rules require them to take reasonable precautions to assure that both clearing organizations will have perfected security interests in accounts, margin deposits, and other assets in their possession or control.

V. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–OCC–89–1), with the exception of the proposed cross-margining pledge facility,[50] be and hereby is approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–23482 Filed 10–4–89; 8:45 am]

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[Rel. No. 34–27291; File No. SR–PSE–89–20]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Eligibility of Certain Market Maker Transactions To Receive Good Faith Margin Treatment.

On August 8, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to incorporate into its rules a pre-existing Options Floor Procedure Advice ("OFPA") that describes which market maker transactions will be eligible to receive good faith margin treatment.

The proposed rule change was published for comment in Securities Exchange Act Release No. 27154 (August

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[45] *See* letter from Jonathan G. Katz, Secretary, Commission, to Jean A. Webb, Secretary, CFTC, dated May 5, 1987.

[46] Futures style margining for exchange-traded options likely would change the economics of options trading, among other things, by altering popular trading strategies such as covered call writing, and could increase systemic credit risks because clearing organizations must guarantee the clearing member payments.

[47] *See* Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567.

[48] The margin system provides for a haircut according to the closeness of the correlation between the products within the product group over the most recent three-month or one-year period. OCC plans to impose a 90% haircut when cross-margining begins.

[49] OCC also plans to have its staff monitor the correlations among instruments on a daily basis, will formally review the appropriateness of the haircut at the regularly scheduled bi-monthly margin committee meetings and will call additional margin committee meetings to review the haircuts when necessary. In addition, either the Chairman or the President of OCC has the authority to change these haircuts when necessary, and when a margin committee meeting can not be convened. *See* OCC Rule 602A, Interpretation 01

[50] *See, supra* note 6

[1] 15 U.S.C. 78s(b)(1) (1982)

[2] 17 CFR 240.19b–4 (1988)

21, 1989), 54 FR 35970 (August 30, 1989). No comments were received on the proposed rule change.

Currently, the Exchange permits only transactions that are initiated on the floor of the Exchange by market makers and floor brokers effecting transactions as market makers to be entitled to special margin treatment, pursuant to the net capital requirements of Rule 15c3–1 under the Act and Regulation T of the Board of Governors of the Federal Reserve System. Any position established for the account of a market maker which has been "entered from off the floor" must be placed in the market maker's investment account and be subject to applicable customer margin requirements. An exception to these requirements exists when an order is marked as a "good until cancelled" ("GTC") order. A market maker, while on the floor, may enter a GTC order with a floor broker and still receive special margin treatment when the order is executed. The order, however, must be a limit order where the quantity cannot be increased nor the limit changed.

The Exchange proposes to delete OFPA B–11, which currently contains the above-mentioned procedures regarding special margin treatment for market maker transactions, and redesignate it as Commentary .01 to PSE Rule VI, Secton 73. This change in format is part of the Exchange's initiative to replace the OFPA's with commentaries to the appropriate rule sections.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Secton 6.[3] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) and (5) of the Act. The Commission believes that placing PSE member obligations regarding the availability of special margin treatment for market maker transactions in an Exchange rule commentary, as opposed to an OFPA, is a proper administrative decision of the PSE and will not alter the substance and effect of the obligations.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that proposed rule change (SR–PSE–89–20) is approved.

[3] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

Dated: September 26, 1989.

[FR Doc. 89–23489 Filed 10–4–89; 8:45 am]

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[Rel. No. 34–27277; File No. SR–PHLX–89–38]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Clocking of Transaction Tickets

On June 26, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt an equity floor procedure advice with respect to the clocking of transaction tickets.

The proposed rule change was noticed in Securities Exchange Act Release No. 27009 (July 10, 1989), 54 FR 29797 (July 14, 1989). No comments were received on the proposal.

The Phlx has proposed to adopt an equity floor procedure advice ("E–5 Clocked Tickets") which would set forth automatic sanctions for violations by floor brokers and specialists of their existing obligation to time stamp order memoranda and transaction tickets.[3] The floor procedure advice will state that floor brokers are responsible for recording the time of receipt on the front of the ticket for each order received on the floor and the time of execution on the reverse side of the ticket for each order they are representing in the crowd at the time of execution. Similarly, the advice will state that specialists are responsible for recording the time of execution on the reverse side of the ticket for each order executed off their book.

In addition, the floor procedure advice will set forth a fine schedule for violations by floor brokers and specialists of these responsibilities. A $50.00 fine will be imposed on a floor broker or specialist for the first occurrence of such a violation, a $100.00 fine for the second, and a $200.00 fine for the third. For any violation after the third occurrence, the Exchange's Business Conduct Committee will have discretion with respect to the fine to be imposed. In addition, the floor procedure advice states that violations compound only when they occur within one year of each other.

In its filing, the Phlx stated that the purpose of the proposed rule change is to set forth the aforementioned automatic sanctions as part of its on-going effort started earlier this year to develop a minor disciplinary infraction program. The program is intended to expedite the handling of routine, minor infractions on the Phlx equity floor similar to that of the Exchange's Floor Procedure Advices in place with respect to the options and foreign currency options floors at the Phlx.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 of the Act.[4] The Commission believes that the proposal is consistent with section 6(b)(1) of the Act because it will facilitate the enforcement by the Exchange of compliance with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange by Phlx members and persons associated with Phlx members. The Commission also believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of the exchanges be ". . . designed to further promote the mechanism of a free and open market and to protect investors and the public interest." The Commission notes that the obligation of floor brokers and specialists to time stamp order memoranda and transaction tickets is part of the Exchange's on-going procedures to implement an effective surveillance program to ensure investor protection. Accordingly, the Commission believes that automatic sanctions for violations

[5] 17 CFR 200.30–3(a)(12) (1988).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] Phlx Rule 216 provides that "[e]very specialist shall keep a legible record of all orders placed with him in the securities in which he is registered as a specialist and of all executions, modifications and cancellations of such orders, and shall preserve such records and all memoranda relating thereto in accordance with Regulation 240.17a–4 of the Securities and Exchange Commission". Rule 17a–4(b) of the Act requires every member, broker, and dealer to preserve all records required to be made pursuant to, among other paragraphs, paragraph 6 Rule 17a–3 of the Act. Rule 17a–3(a)(6) of the Act requires every member of a national securities exchange to make and keep current a memoranda of each brokerage order, and any other instruction, given or received for the purchase or sale of securities, whether executed or not, showing, among other things, the time of entry and the time of execution or cancellation.

[4] 15 U.S.C. 78f (1982).

by floor brokers and specialists of their time stamp obligations is an appropriate addition to the Exchange's minor disciplinary infraction program. The Commission also finds that the proposed sanctions are consistent with section 6(b)(6) of the Act because the penalties set forth in the equity floor procedure advice are reasonable in relation to the infractions in question.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: September 20, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23490 Filed 10-4-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-24959; 31-835 and 31-836; Administrative Proceeding File No. 3-7266]

ALLTEL Corp.; Order for Hearing on Application for Exemption

September 28, 1989.

ALLTEL Corporation ("ALLTEL"), 100 Executive Parkway, Hudson, Ohio 44236, has filed an application for exemption pursuant to section 3(a)(3) of the Public Utility Holding Company Act of 1935 ("Act").

The application for exemption was filed in anticipation of ALLTEL's acquisition of all of the common stock of CP National Corporation ("CPN"), which is, among other things, a gas utility company. The acquisition of CPN was effected on December 30, 1988, and ALLTEL thereupon became a public-utility holding company. The application was amended on February 6, 1989, to reflect the completed acquisition and to remove CPN as a co-applicant. Four amendments to the application have been filed, the last on July 12, 1989. Under section 3(c) of the Act, ALLTEL is exempt "until the Commission has acted upon such application."

The application states that ALLTEL is, and from the time of its inception in 1961 has always been, a telecommunications holding company. It has grown steadily since its organization as an Ohio holding company formed to own four relatively small Ohio telephone companies, and today it has twenty-eight telephone operating subsidiaries, exclusive of CPN. ALLTEL's growth has primarily been the result of acquisitions of other telecommunications related companies. It is a publicly owned company whose stock is traded on the New York Stock Exchange and other exchanges, and is a reporting company under the Securities Exchange Act of 1934. Its total operating revenues for 1988 were $842,942,000, its operating income was $204,368,000, and its net income after taxes was $121,063,000. At December 31, 1988, ALLTEL's total assets were $1,744,204,000.

CPN, on the other hand, is described in the application as a more diversified corporation than ALLTEL. Its holdings throughout the western United States include telephone operating properties and subsidiaries, communications-related manufacturing subsidiaries, and retail gas distribution properties. CPN also provides sophisticated communications and electronic products and services to domestic and international government and military customers.

The application states that CPN's telephone and gas utility services are provided in rural communities in Oregon, California, Nevada, Utah, Arizona, New Mexico, and Texas. In recent years, however, CPN has increased substantially its involvement in manufacturing, and it recently divested itself of its electric utility operations and increased its emphasis on telephone and telecommunications related businesses. CPN continues to provide retail natural gas distribution service in five counties of Oregon, in South Lake Tahoe and Needles, California, and in Henderson, Nevada. CPN's telephone and gas operations in each of these states are regulated by the relevant state public-utility commission and, in the case of its gas utility operations, by the Federal Energy Regulatory Commission. CPN does not have any gas reserves and is not involved in gas exploration or production. In 1988, CPN provided natural gas service to approximately 61,000 customers. For the year ended December 31, 1988, CPN derived total operating revenues of $42,183,000, operating income of $6,613,000, and net income after taxes of $3,267,000 from its gas operations. Its gas utility assets aggregated $78,197,000. CPN's total operating revenue for 1988 were $225,538,000, its operating income was $45,648,000, and its net income after taxes was $3,976,000. At December 31, 1988, CPN's total assets were $408,882,000.

The application states that any plan developed by ALLTEL and CPN reflecting an intent to dispose of the gas distribution properties of CPN would, under Accounting Principles Board Opinion No. 16, render pooling-of-interests accounting unavailable for the overall acquisition transaction and that, in addition, any plan or expression of intent to sell any significant part of the assets of CPN would jeopardize tax free reorganization treatment of the acquisition of CPN by ALLTEL.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the application for exemption and that interested persons be afforded an opportunity to be heard at such hearing with respect to such matter. Accordingly,

It is ordered, pursuant to section 19 of the Act, That a hearing be held on the application under the applicable provisions of the Act and the rules of the Commission at a time and place to be fixed by further order, as provided by rule 6 of the Commission's Rules of Practice (17 CFR 201.6), and that an Administrative Law Judge, to be designated by further order, preside at said hearing. Any person, other than ALLTEL, desiring to be heard or otherwise wishing to participate in that proceeding is directed to file with the Secretary of the Commission, on or before October 30, 1989, an application, as provided by rule 9 of the Commission's Rules of Practice (17 CFR 201.9), setting forth the nature and extent of such person's interest in the proceeding and any issues deemed to be raised by this Notice and Order or by the application. A copy of that request shall be served personally upon ALLTEL at the address noted above, and proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing and any adjournments thereof, as well as of other actions of the Commission involving the subject matter of this proceeding.

The Division of Investment Management has advised the Commission that it has examined the application and that, upon the basis thereof, the following questions are presented for consideration, without prejudice to the Commission's specifying additional questions upon further examination:

(1) Whether ALLTEL "is only incidentally a holding company" in light of the relationship between its utility business and its other business.

(2) Whether the size of ALLTEL's utility business precludes the requested section 3(a)(3) exemption.

(3) Whether the geographical separation of ALLTEL's retail gas

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[5] 15 U.S.C. 78s (b)(2) (1982).

[6] 17 CFR 200.30-3 (a)(12) (1989).

distribution operations is detrimental to the public interest or the interest of investors or consumers within the meaning of the "unless and except" clause of section 3(a) of the Act.

(4) Generally, whether the proposed exemption is in all respects compatible with the provisions and standards of the applicable sections of the Act and of the rules promulgated thereunder.

(5) What terms or conditions, if any, the Commission should impose if the exemption request is approved.

It is further ordered, That attention should be given to the foregoing questions at the hearing.

It is further ordered, That the Division of Investment Management shall be a party to the proceeding.

It is further ordered, That the Secretary of the Commission shall give notice of the hearing by mailing copies of this Notice and Order by certified mail to ALLTEL at the address noted above; that notice to all other persons be given by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the hearing shall be included in the "SEC News Digest."

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23492 Filed 10-4-89; 8:45 am]

BILLING CODE 8010-01-M

(Rel. No. 35-24961)

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 28, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 23, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20459, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Southwestern Electric Power Company (70-7676)

Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71156, a wholly owned electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration pursuant to Sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rules 42, 50 and 50(a)(5) thereunder.

SWEPCO proposes to issue and sell from time to time up to $75,000,000 aggregate principal amount of its First Mortgage Bonds ("New Bonds") through December 31, 1990. The New Bonds will have maturities of five to thirty years. Interest rates and the price to be paid to SWEPCO for the New Bonds will be determined by competitive bidding. If market conditions should be impractical or undesirable for the sale of the New Bonds on a competitive bidding basis, SWEPCO proposes, subject to further authorization by the Commission, to negotiate a private sale of the New Bonds through underwriters.

SWEPCO states that the proceeds from the sale of the New Bonds, possibly together with internally generated funds and available short-term borrowings, will be applied to the cost of, or the reimbursement of the treasury for, the acquisition of all or a portion of SWEPCO's First Mortgage Bonds Series S, 11⅜% Due August 1, 2015 ("Series S Bonds"). In the event that the proceeds from the issuance of the New Bonds are greater than the amount required for the tender of the Series S Bonds, the remaining proceeds will be used for the repayment of short-term debt or for other general corporate purposes.

Because the Series S Bonds may not be refunded with funds borrowed at a lower cost to SWEPCO than 11.55% per annum prior to August 1, 1990, SWEPCO proposes to acquire, through December 31, 1990, its outstanding Series S Bonds through a cash tender offer to the holders of the Series S Bonds. The tender offer prices will include a premium over the market price of the Series S Bonds. There are approximately $70,686,000 in aggregate principal amount of Series S Bonds outstanding.

SWEPCO proposes to acquire all or a portion of its outstanding Series S Bonds because the estimated present value savings (derived from the net difference between interest payments on a new issue of comparable bonds and the Series S Bonds proposed to be refunded), on an after-tax basis, would be greater than the present value of all refunding, tendering, and issuance costs, assuming an appropriate discount rate.

Columbia Gas Systems Service Corporation (70-7678)

Columbia Gas System Service Corporation ("Service"), 20 Montchanin Road, Wilmington, Delaware 19807, a wholly owned subsidiary of the Columbia Gas System, Inc. ("Columbia"), has filed a declaration pursuant to Section 12(c) of the Act and Rule 42 thereunder.

Service proposes to enter into a sale and leaseback arrangement for Columbia's corporate headquarters building and land which is located at 20 Montchanin Road, Wilmington, Delaware. The sales price is estimated to be approximately $20 million, but not greater than $32 million. Service proposes to use 50% of the net after-tax proceeds to retire its common stock, par value $100 per share. Net proceeds from the sale which will be used to retire Service's common stock are expected to be approximately $13.5 million, but no more than $22 million.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-23493 Filed 10-4-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 6814; Amdt. 1]

Arkansas; Declaration of Disaster Loan Area

Newton County and the contiguous counties of Boone, Carroll, Johnson, Madison, Pope, and Searcy, in the State of Arkansas, constitute an Economic Injury Disaster Loan Area as a result of damages resulting from flooding caused

by severe storms, including Tropical Storm Allison, beginning on May 4 and continuing through July 1989. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on June 20, 1990 at the address listed below: Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, TX 75051, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: September 20, 1989.

K. Bulow,

Acting Administrator.

[FR Doc. 89-23522 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2381]

California; Declaration of Disaster Loan Area

The Haciedna Heights area of Los Angeles County and the contiguous counties of Kern, Orange, San Bernardino, and Ventura, in the State of California, constitute a disaster area as a result of damages from a wildfire which occurred on July 3 and July 4, 1989. Applications for loans for physical damage as a direct result of this wildfire may be filed until the close of business on November 20, 1989 and for economic injury as a direct result of this wildfire until the close of business in June 21, 1990 at the address listed below:

Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95825, or other locally announced locations.

The interest rates are:	Percent
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Businesses and Non-Profit Organizations (EIDL) Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125

The number assigned to this disaster for physical damage is 238105 and for economic injury the number is 684800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 21, 1989.

K.M. Bulow,

Acting Administrator.

[FR Doc. 89-23523 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2385]

North Carolina; Declaration of Disaster Loan Area

Cumberland County and the contiguous counties of Bladen, Harnett, Hoke, Moore, Robeson, and Sampson, in the State of North Carolina, constitute a disaster area as a result of damages from heavy rains and flooding which occurred on September 15-16, 1989. Applications for loans for physical damage may be filed until the close of business on November 27, 1989 and for economic injury until the close of business on June 26, 1990 at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308, or other locally announced locations.

	Percent
The interest rates are:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Businesses and Non-Profit Organizations (EIDL) Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125

The number assigned to this disaster for physical damage is 238106 and for economic injury the number is 685300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 26, 1989.

Kay Bulow,

Acting Administrator.

[FR Doc. 89-23524 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2386]

North Carolina and Contiguous Counties in the State of South Carolina; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 25, 1989, I find that the Counties of Gaston, Lincoln, Mecklenburg, and Union, in the State of North Carolina, constitute a disaster area as a result of damages caused by Hurricane Hugo which occurred on September 21-22, 1989. Applications for loans for physical damage may be filed until the close of business on November 24, 1989, and for economic injury until the close of business on June 25, 1990, at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308, or other locally announced locations.

In addition, applications for economic injury from small businesses located in the contiguous counties of Anson, Burke, Cabarrus, Catawba, Cleveland, Iredell, and Stanly, in the State of North Carolina; and Chesterfield, Lancaster, and York Counties, in the State of South Carolina, may be filed until the specified date at the above location.

	Percent
The interest rates are:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Businesses and Non-Profit Organizations (EIDL) Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations With Credit Available Elsewhere	9.125

The number assigned to this disaster for physical damage for the State of North Carolina is 238608, and for economic injury the numbers are 685400 for North Carolina and 685500 for the State of South Carolina.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 28, 1989.

Michael E. Deegan,

Acting Deputy Associated Administrator for Disaster Assistance.

[FR Doc. 89-23525 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2383]

Commonwealth of Puerto Rico; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 21, 1989, I find that the municipalities, of Canovanas, Carolina, Ceiba, Culebra, Fajardo, Humacao, Juncos, Las Piedras, Loiza, Luquillo, Maunabo, Naguabo, Rio Grande, San Juan, Vieques, and Yabucoa, in the Commonwealth of Puerto Rico, constitute a disaster area as a result of damages caused by Hurricane Hugo which occurred on September 17-18, 1989. Applications for loans for physical damage may be filed until such time as determined by the Federal Emergency Management Agency, and applications for loans for economic injury may be filed until the close of business on June 21, 1990, at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410, or other locally announced locations.

In addition, applications for economic injury from small businesses located in the contiguous municipalities of Aguas Buenas, Caguas, Guaynabo, Curabo, Patillas, San Lorenzo, and Trujillo Alto, in the Commonwealth of Puerto Rico, may be filed until the specified date at the above location.

	Percent
The interest rates are:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Businesses and Non-Profit Organizations (EIDL) Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations With Credit Available Elsewhere	9.125

The number assigned to this disaster for physical damage is 238308, and for economic injury the number is 685000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 25, 1989.

Michael E. Deegan,

Acting Deputy Associated Administrator for Disaster Assistance.

[FR Doc. 89-23526 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2384]

South Carolina And Contiguous Counties in the State of North Carolina; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 22, 1989, I find that the Counties of Berkeley, Charleston, Dorchester, Georgetown, Horry, Orangeburg, and Sumter, in the State of South Carolina, constitute a disaster area as a result of damages caused by Hurricane Hugo which occurred on September 21-22, 1989. Applications for loans for physical damage may be filed until the close of business on November 20, 1989, and for economic injury until the close of business on June 22, 1990, at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th Fl., Atlanta, Georgia 30308, or other locally announced locations.

In addition, applications for economic injury from small businesses located in the contiguous counties of Aiken, Bamberg, Barnwell, Calhoun, Clarendon, Colleton, Dillon, Florence, Kershaw, Lee, Lexington, Marion, Richland, and Williamsburg, in the State of South Carolina; and Brunswick, Columbus, and Robeson Counties, in the State of North Carolina, may be filed until the specified date at the above location.

	Percent
The interest rates are:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Businesses and Non-Profit Organizations (EIDL) Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125

The number assigned to this disaster for physical damage for the State of South Carolina is 238408, and for economic injury the numbers are 685100 for South Carolina and 685200 for the State of North Carolina.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 25, 1989.

Michael E. Deegan,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89-23527 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-0-M

[Declaration of Disaster Loan Area No. 2382]

U.S. Territory of the Virgin Islands; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on September 20, 1989, I find that the Islands of St. Croix, St. John, and St. Thomas, in the U.S. Territory of the Virgin Islands, constitute a disaster area as a result of damages caused by Hurricane Hugo which occurred on September 17-18, 1989. Applications for loans for physical damage may be filed until such time as determined by the Federal Emergency Management Agency, and applications for loans for economic injury may be filed until the close of business on June 20, 1990, at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410, or other locally announced locations.

	Percent
The interest rates are:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Businesses and Non-Profit Organizations (EIDL) Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125

The number assigned to this disaster for physical damage is 238208, and for economic injury the number is 684900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: September 22, 1989.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 89-23528 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[License Number: 08/08-0059]

Enterprise Finance Capital Development Corp.; Surrender of License

Notice is hereby given that Enterprise Finance Capital Development Corp., One East First Street, Suite 1100, Reno, Nevada 89501, has surrendered its License to operate a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Enterprise Finance Capital Development Corp. was licensed by the Small Business Administration on December 29, 1983.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on September 20, 1989, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 25, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-23533 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, will hold a public meeting at 11:00 a.m., on Friday, October 27, 1989, at the Goldstreet Restaurant, Maine Street, South Paris, Maine, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration or others present.

For further information, write or call Roy Perry, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine 04330, phone (207) 622-8382.

Dated: September 27, 1989.

Jean M. Nowak,

Director Office of Advisory Councils.

[FR Doc. 89-23529 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Casper, will hold a public meeting at 9:00 a.m., on Friday, October 27, 1989, at the Wort Hotel, 50 North Glenwood, Jackson, Wyoming, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Paul W. Nemetz, District Director, U.S. Small Business Administration, Casper District Office, Federal Building, Room 4001, 100 East "B" Street, P.O. Box 2839, Casper, Wyoming 82602-2839.

Dated: September 27, 1989.

Jean M. Nowak,

Director Office of Advisory Councils.

[FR Doc. 89-23530 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate," which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.301 (a) and (b) is 8.80 percent per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as further amended by section 1 of Public Law 99-226, December 28, 1985 (99 Stat. 1744), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

(Catalog of Federal Domestic Assistance Program No. 59.011, small business investment companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-23532 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06/0294]

Revelation Resources, Ltd.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to section 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1989)) for Transfer of Control of Revelation Resources, Ltd. (Licensee), 2929 Allen Parkway, Suite 1705, Houston, Texas 77019, a small business investment company (SBIC) and a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et. seq.*).

The Licensee is a limited partnership SBIC. The proposed transfer of control would result from the sale of the corporate general partner, Revelation Resources Management Corporation (RRMC), now owned by Michael Walker to American Capital Corporation (ACC), located at 218 East Saint. Mary's Street, Centerville, Texas 75833, and the elimination of the individual general partner (Michael Walker).

The Corporate General Partner is defined as a "Control Person" in Section 107.3 of the SBA Regulations. As such, a change in the ownership of the Corporate General Partner constitutes a change in control of the Licensee.

The Corporate General Partner and Limited Partners will be as follows:

Name	Title or relationship	Percentage of partnership interest (Percent)
Revelation Resources Management Corp. (RRMC).	General Partner.	1.00
Fairfield State Bank	Class A Ltd. Partner.	7.83
Centerville State Bank	Clas A Ltd. Partner.	5.21
First Bank—Navasota	Class A Ltd. Partner.	13.72
D. Kent Anderson	Class B Ltd. Partner.	72.24

ACC owns Centerville State Bank, Fairfield State Bank, and First Bank—Navasota. Each is a limited partner of the Licensee. ACC is 85.3% owned by D. Kent Anderson, a .imited partner of the Licensee.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new

company under their management including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 29, 1989.

Robert G. Lineberry,

Deputy Associate Administrator, for Investment.

[FR Doc. 89-23531 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

[Application Number: 02/02-0534]

Creditanstalt Capital Corporation; Application for a Small Business Investment Company License

An application for a license to operate a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661, *et seq.*) has been filed by Creditanstalt Capital Corporation (CCC), 245 Park Avenue, New York, New York 10167 (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1989).

The officers, directors, and major shareholders of the Applicant are as follows:

Frederick C. Hertel, 25 Wilton Road West, Ridgefield, Connecticut 06877.	Chairman.
Dennis C. O'Dowd, 51 Kent Street, Staten Island, New York 10306.	President.
Petrina Jones, 28 East 73rd Street, New York, New York 10021.	Vice President.
Andrew V. Fellingham, 154 Wellinton Road, Garden City, New York 11530.	Treasurer.
Raymond L. Herbert, 557 N. 12th Street, New Hyde Park, New York 11040.	Secretary.
Kathy L. Herbert, 20 West 64th Street, New York, New York.	Assistant Secretary.

Vienna Holdings, Inc., a wholly-owned subsidiary of Creditanstalt Bankverein of 245 Park Avenue, New York, New York 10167, will be the sole shareholder of Creditanstalt Capital Corporation.

The Applicant, CCC, a New York corporation, will begin operations with $1,000,000 in paid-in capital and paid-in surplus. CCC will conduct its activities primarily in the States of Connecticut, Massachusetts, New Jersey, and eastern Pennsylvania, but will consider investments in other areas of the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 20, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-23537 Filed 10-4-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1134]

Determination to Waive the Transfer of Foreign Assistance Funds Under the Fishermen's Protective Act

Pursuant to the authority vested in me by Executive Order 11772, I hereby certify that it is in the national interest not to transfer to the account established in the Treasury pursuant to section 7(c) of the Fishermen's Protective Act (22 U.S.C. 1977(c)) or to the Fishermen's Protective Fund established by section 9 of the Fishermen's Protective Act (22 U.S.C. 1979) funds from the Foreign Assistance Act of 1961, as amended, programmed for Mexico, Brazil, Costa Rica, St. Vincent, Papua New Guinea, Solomon Islands, Kiribati, and Federated States of Micronesia or any funds which might be programmed for these countries, in the aggregate amount of $9,164,639.83. This amount is equal to the amounts specified in the attached list of previously unreported payments and certifications made prior to March 31, 1989 which have been reimbursed by the Secretary of State for fishing boat seizures in accordance with section 3 and section 7 of the Fishermen's Protective Act.

This determination, which shall satisfy the requirements of section 5(b) of the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1975(b)), shall be reported to the Congress immediately and shall be published in the **Federal Register.**

Dated: September 8, 1989.

James A. Baker, III,

Secretary of State.

Previously Unreported Amounts Under the Fishermen's Protective Act

	Sec. 3 amount	Sec. 7 amount	Total
Brazil	$19,407.02	$71,415.07	$90,822.09
Costa Rica	290,404.53	67,707.74	358,112.27
Cuba		34,102.68	34,102.68
Federated States of Micronesia	396,000.00	158,219.52	554,219.52
Kiribati	1,218,586.00		1,218,586.00
Mexico	75,968.41	296,937.08	372,905.49
Papua New Guinea	280,860.00	198,434.46	479,294.46
St. Vincent	15,000.00		15,000.00

	Sec. 3 amount	Sec. 7 amount	Total
Solomon Islands	606,700.00	5,469,000.00	6,075,700.00
All countries	2,902,925.96	6,295,816.55	9,198,742.51

[FR Doc. 89-23462 Filed 10-4-89; 8:45 am]
BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

Aviation Security Advisory Committee; Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of Aviation Security Advisory Committee Meeting.

SUMMARY: Notice is hereby given of the first meeting of the Aviation Security Advisory Committee.

DATE: The meeting will be held October 20, 1989, from 9 a.m. to 12 p.m.

ADDRESS: The meeting will be held at the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. II, notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held October 20, 1989, in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for this meeting is as follows: A presentation of the Committee's scope and objectives and statements by the Chairperson and Executive Director on the Committee's role and activities. Members of the Committee will be introduced.

Attendance at the October 20 meeting is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the Office of Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on October 2, 1989.

Raymond A. Salazar,
Director of Civil Aviation Security.

[FR Doc. 89-23590 Filed 10-4-89; 8:45 am]
BILLING CODE 4910-13-M

Coast Guard

[CGD1 89-123]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 USC App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on October 26, 1989, in the Conference Room, second floor, U.S. Coast guard Marine Inspection Office, Battery Park, New York, New York, beginning at 10:00 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Continuation of the Committee.
3. Update Kill Van Kull Dredging Project, proposed new navigation rules.
4. Update Newark Dredging Plan.
5. Update of Navy Homeport Project.
6. Topics from the floor.
7. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander L. Brooks, USCG, Executive Secretary, NY Harbor Traffice Management Advisory Committee, Port Safety Office, Building 109, Governors Island, New York, NY 10004; or by calling (212) 668-7834.

Dated: September 26, 1989.

R. I. Rybacki,
Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 89-23629 Filed 10-4-89; 8:45 am]
BILLING CODE 4910-14-M

[CGD 89-076]

Rules of the Road Advisory Council; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given of a meeting of the Rules of the Road Advisory Council (RORAC). A meeting of the Rules of the Road Advisory Council will be held Wednesday thru Friday, November 1-3, 1989. The meeting will be held at the Holiday Inn/Crowne Plaza Hotel, 6th and Seneca, Seattle, Washington, and is scheduled to begin at 8:00 a.m. and end at 5:00 p.m. each day. The agenda for the meeting includes the following:

1. Committee meetings on Wednesday, November 1st and the morning of Thursday, November 2nd concerning the following:

a. Certificates of Alternative Compliance.

b. Placement of Combined Sidelights on vessels less than 20 meters in length.

c. Elimination of dayshape for sailing vessels also being propelled by machinery.

d. Seaplane Communications.

e. Brightness of Masthead Lights on tow vessels operating on Western Rivers/Inland Waterways.

f. Sidelight Placement and Masthead Light Placement.

g. Vertical Sector of Electric Lights Requirement for Unmanned Barges operating in COLREG waters.

h. Navigation Safety Advisory Council (NAVSAC). Pending legislation broadens the scope and changes the name of RORAC to the Navigation Safety Advisory Council (NAVSAC).

This committee will recommend the framework and charter for NAVSAC.

2. Council to convene in plenary session on Thursday, November 2nd at 1:00 p.m. Agenda will include status reports and information items, reports by the committees noted in paragraph 1 above, and any matters properly brought before the Council.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any members of the public may present a written statement to the Council at any time.

Additional information may be obtained from Commander Thomas J. Meyers, Executive Director, Rules of the Road Advisory Council, U.S. Coast Guard (G–NSR–3), Washington, DC 20593–0001, Telephone (202) 267–0357.

Dated: September 29, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–23630 Filed 10–4–89; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Departmental Offices

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92–463, that a meeting will be held at the U.S. Treasury Department in Washington, DC on October 31, and November 1, 1989, of the following debt management advisory committee: Public Securities Association, Treasury Borrowing Advisory Committee.

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for a working session on October 31 and the preparation of a written report to the Secretary of the Treasury on November 1, 1989.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92–463, and vested in me by Treasury Department Order 101–05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives on the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92–463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of title 5 of the United States Code.

Dated: September 29, 1989.

David W. Mullins, Jr.,

Assistant Secretary, (Domestic Finance).

[FR Doc. 89–23570 Filed 10–4–89; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Radio Engineering Advisory Committee; Meeting

The Radio Engineering Advisory Committee of the United States Information Agency (USIA) will meet in Washington, DC, on Thursday October 12, 1989, to discuss current operations and future plans of the Voice of America (VOA). The meeting will be held at the Voice of America, 330 Independence Avenue, SW., Washington, DC 20547. The meeting will begin at 9 a.m. on October 12 and will continue through 4 p.m. Point of contact for the meeting is Mrs. Helen Giles, telephone (202) 485–8048.

This meeting will include reports from senior members of the VOA management and engineering staff on the progress being made on the overall VOA modernization and enhancement effort. Specific topics of discussion will include the procurement and testing of high frequency broadcasting antennas, the status of negotiations with other governments and major construction projects, and other technical and regulatory issues relating to VOA modernization.

This meeting will be closed to the public because issues relating to negotiations with other governments will be discussed throughout the meeting. This meeting will be closed because disclosure of the matters to be discussed is likely to divulge information that is: (A) Specifically authorized under criteria established by an Executive Order (12356) to be kept secret in the interest of national defense or foreign policy, and (B) in fact, is properly classified pursuant to such Executive Order (5 USC 552b(c)(1)).

Dated: September 26, 1989.

Bruce S. Gelb,

Director.

Determination To Close Radio Engineering Advisory Committee Meeting

October 12, 1989.

I hereby determine that the meeting scheduled by the Radio Engineering Advisory Committee on Thursday, October 12, 1989, to discuss current operations and future plans of the Voice of America (VOA) may be closed to the public.

This meeting will concern issues relating to negotiations with other governments. The information relating to such negotiations is specifically authorized under criteria established by Executive Order to be kept secret in the interest of foreign policy and is properly classified pursuant to Executive Order.

I hereby determine, therefore, that the meeting scheduled by the Radio Engineering Advisory Committee on October 12, 1989, may be closed to the public (5 USC 552b(c)(1)).

Dated: September 26, 1989.

Bruce S. Gelb,

Director.

[FR Doc. 89–23521 Filed 10–4–89; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 54, No. 192
Thursday, October 5, 1989

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0227]

Health Omnibus Extension Act; Establishment of Clinical Trial Data Bank

Correction

In notice document 89-17117 beginning on page 30612 in the issue of Friday, July 21, 1989, make the following correction:

On page 30613, in the third column, under **"Definition of an Efficacy Trial"**, in the ninth line, "with" should read "when".

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[332-278]

United States-Canada Free-Trade Agreement; Probable Economic Effect on U.S. Industries and Consumers of Accelerated Elimination of U.S. Tariffs on Certain Articles From Canada

Correction

In notice document 89-22347 appearing on page 38753, in the issue of Wednesday, September 20, 1989, the heading was incomplete and should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 18334; Amdts. No. 1-36, et al.]
RIN 2120-AA13

Revision of General Operating and Flight Rules

Correction

In rule document 89-18775 beginning on page 34284, in the issue of Friday, August 18, 1989, make the following corrections:

§ 91.185 [Corrected]

1. On page 34303, in the second column, in § 91.185(c)(2), in the third line, "segment" was misspelled.

§ 91.323 [Corrected]

2. On page 34310, in the third column, in § 91.323(a)(2), in the fourth line, "fire 1 detection" should read "fire detection".

§ 91.409 [Corrected]

3. On page 34312, in the first column, in § 91.409(d)(2)(ii), in the third line, after "routine" insert "and detailed inspections will be performed and including".

§ 91.801 [Corrected]

4. On page 34322, in the first column, in § 91.801(b), in the 24th line, after "under" insert a comma.

Appendix F [Corrected]

5. On page 34328, in Appendix F, in the table, in the third column, in the sixth entry, "of 5%" should read "of ±".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA-49]

State of Louisiana Application for Consistency Ruling

Correction

In notice document 89-22836 beginning on page 39622 in the issue of Wednesday, September 27, 1989, make the following correction:

On page 39622, in the third column, under **"FOR FURTHER INFORMATION CONTACT:"**, in the sixth line, the phone number should read "202-366-4400".

BILLING CODE 1505-01-D

federal register

Thursday
October 5, 1989

Part II

General Services Administration

41 CFR Part 101-6
Federal Advisory Committee Management; Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-6

[FPMR Amdt. A-48]

Federal Advisory Committee Management

AGENCY: Office of Administration, GSA.

ACTION: Final rule.

SUMMARY: This final rule provides additional administrative and interpretive guidelines and management controls for Federal agencies concerning the implementation of the Federal Advisory Committee Act, as amended (5 U.S.C., App.) (hereinafter "the Act"). In a previous issue of the **Federal Register**, GSA published an initial final rule on the management of Federal advisory committees (52 FR 45926, December 2, 1987). This new final rule revises the current rule to improve further the management and use of Federal advisory committees in the Executive Branch of the Federal Government. These revisions: (1) Clarify the guidelines applicable to achieving committee memberships which are balanced in a way that is fair and consistent with section 5(b) of the Act; (2) add new language which cross-references regulations relating to Federal conflict-of-interest statutes and standards of conduct within the final rule; (3) clarify the procedures for transmitting follow-up reports to the Congress as required by section 6(b) of the Act on Presidential advisory committee recommendations; and (4) provide that annual agency fiscal year reports to GSA shall also include information requested to carry out the annual comprehensive review required by section 7(b) of the Act. Corrections of minor, nonsubstantive errors in the text of the original final rule have also been made.

EFFECTIVE DATE: October 5, 1989.

ADDRESSES: General Services Administration, Committee Management Secretariat (CTM), Washington, DC 20405.

Copies of the two comments received are available for public inspection in Room 6206 of the General Services Building, 18th and F Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles F. Howton, Senior Committee Management Specialist, Committee Management Secretariat, Office of Management Services, Office of Administration, General Services Administration, Washington, DC 20405 (202) 523-4884.

SUPPLEMENTARY INFORMATION:

Background

GSA's authority for administering the Act is contained in section 7 of the Act and Executive Order 12024 (42 FR 61445, 3 CFR, 1977 Comp., p. 158). Under Executive Order 12024, the President delegated to the Administrator of General Services all of the functions vested in the President by the Act, as amended, except that the Annual Report to the Congress required by section 6(c) shall be prepared by the Administrator for the President's consideration and transmittal to the Congress.

Discussion of Comments

GSA published a notice of proposed rulemaking in the **Federal Register** on the management of Federal advisory committees, with a 60-day comment period ending on February 28, 1989 (53 FR 53022, December 30, 1988). No Federal agency submitted substantive recommendations. Two non-Federal commenters responded in writing and were highly supportive of the proposed rule, stating, for example, that "The proposed rule provides greater guidance to agencies * * *" and, that "The changes proposed by GSA * * * represent a major improvement over the existing rules." Both commenters offered suggestions for improving two sections of the proposed rule, both of which pertained to provisions relating to balanced membership of advisory committees. These comments discussed three recommendations made in relation to § 101-6.1007(b)(2)(iii) and to § 101-6.1015(a)(1) of the proposed rule. The disposition of these recommendations is addressed as follows:

Require that Agencies Include in Their Balanced Membership Plans a Description of Plans To Attain and Maintain Fairly Balanced Membership

One commenter stated that the final rule should require agencies to describe plans to maintain fairly balanced membership, since * * * "advisory committees undergo changes from the initial composition through routine membership rotations or the resignation and replacement of members." GSA agrees that advisory committees often have changing membership composition.

However, section 14(a)(2)(A) of the Act provides that advisory committees established by agencies shall terminate after two years unless renewed by appropriate action. In § 101-6.1029(c) of the original final rule, GSA requires that an agency head who intends to renew a committee comply with the provisions of § 101-6.1007 of the final rule duplicating procedures for establishment. The renewing agency must provide a description of its plan to attain fairly balanced membership on a biennial basis and, therefore, must address at the time of renewal any changes to the composition of the committee which may have occurred since its establishment or last renewal. GSA recognizes the merit of this suggestion, but believes that the Act and existing rule already provide for agencies to accommodate the requirement for fairly balanced membership. GSA, therefore, has not adopted this recommendation.

Require that Agencies Consider and Select a Cross-Section of Certain Membership Categories

The other commenter was of the opinion that the language in the proposed rule requiring that an agency consider (only) certain categories of potential members seemed to suggest that * * * "so long as an agency has 'considered' a cross-section of views and interests in the course of putting a committee together, it can ultimately select any composition it wants, including one which is one-sided and imbalanced." GSA does not believe that the guidance provided in the rule necessarily will cause agencies to adopt this perceived course with regard to membership selection, leading to the results suggested by this commenter.

In any case, § 101-6.1015(a)(1) of the new final rule will now require the agency to publish in advance in the **Federal Register** its description of its plan to attain fairly balanced membership, allowing for public comments which could include those offered by any interested party who might disagree that the committee will be fairly balanced. Furthermore, since the eventual selection of members for the composition an advisory committee established under this provision rests with the agency head, GSA does not believe that the final rule can compel an agency to make any particular membership selection. GSA has, therefore, not adopted this recommendation.

Require that an Agency's **Federal Register** *Notice of Establishment Solicit the Proposal of Specific Nominees for Inclusion on a Committee*

With regard to the **Federal Register** notice of establishment required by § 101-6.1015(a)(1) of the final rule, the previous commenter also suggested further that * * * "by requiring agencies to give the public an opportunity to comment on the plan for attaining fairly balanced membership, including by proposing specific nominees for

inclusion on the committee * * * (that) This would be invaluable to the public and would also be of great benefit to agencies, because it would ensure that they would have the most information possible about potential committee members."

For the following reasons, GSA has not adopted this suggestion. First, a notice of establishment normally contains the name and telephone number of the agency official responsible for responding to questions from, or for receiving comments provided by, any interested person. Such comments can include proposals for specific nominees for membership on a committee. Second, notices of establishment frequently are published by an agency prior to the selection of members, and the agency would have the opportunity to consider the commenter's suggestions of potential members. Even if an agency has chosen the members of a committee prior to the publication of the notice, it can make changes to the membership at any time during the life of the committee. Third, GSA is of the opinion that the overall purpose of the **Federal Register** notice of establishment, which in accordance with § 101–6.1015(a)(2) of the final rule shall appear at least 15 days before the filing of the committee's charter, is to provide the public an opportunity to comment on the necessity or any other aspect of the proposed committee.

Additional Information

The guidelines contained in this final rule with respect to § 101–6.1008(d), wherein GSA may solicit the assistance of the Office of Management and Budget in assuring the completion of follow-up reports required by section 6(b) of the Act, were developed by GSA after consultation with that agency.

Similarly, the guidelines contained in this final rule with respect to § 101–6.1009(j), wherein an agency head shall ensure that the interests and affiliations of advisory committee members are reviewed consistent with regulations published by the Office of Government Ethics, were developed by GSA after consultation with that agency.

Executive Order 12291

GSA has determined that this final rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, will not cause a major increase in costs to consumers or others, and will not have significant adverse effects. GSA has based all administrative decisions on this final rule on adequate information concerning the need for and consequences of this final rule. GSA has also determined that the potential benefits to society from this final rule far outweight the potential costs, has maximized the net benefits, and has chosen the alternative involving the least cost to society.

Regulatory Flexibility Act

These regulations are not subject to the regulatory flexibility analysis or other requirements of 5 U.S.C. 603 and 604.

List of Subjects in 41 CFR Part 101–6

Civil Rights, Government property management, Grant programs, Intergovernmental relations, Surplus Government property, Relocation assistance, Real property acquisition, Federal advisory committees.

Accordingly, 41 CFR part 101–6 is amended as follows:

PART 101–6—MISCELLANEOUS REGULATIONS

1. The authority citation for 41 CFR part 101–6 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); sec. 7, 5 U.S.C., App.; and E.O. 12024, 3 CFR 1977 Comp., p. 158.

2. Section 101–6.1001 is amended by revising paragraph (a) to read follows:

§ 101–6.1001 Scope.

(a) This subpart defines the policies, establishes minimum requirements, and provides guidance to agency management for the establishment, operation, administration, and duration of advisory committees subject to the Federal Advisory Committee Act, as amended. Reporting requirements which keep the Congress and the public informed of the number, purpose, membership activities, and cost of these advisory committees are also included.

* * * * *

3. Section 101–6.1002 is amended by revising paragraph (c) to read as follows:

§ 101–6.1002 Policy.

* * * * *

(c) An advisory committee shall be fairly balanced in its membership in terms of the points of view represented and the functions to be performed; and

* * * * *

4. Section 101–6.1007 is amended by revising the introductory text of paragraph (b)(2) and paragraph (b)(2)(iii) to read as follows:

§ 101–6.1007 Agency procedures for establishing advisory committees.

* * * * *

(b) * * *

(2) Submit a letter and the proposed charter to the Secretariat proposing to establish or use, reestablish, or renew an advisory committee. The letter shall include the following information:

* * * * *

(iii) A description of the agency's plan to attain fairly balanced membership. The plan will ensure that, in the selection of members for the committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the committee. Committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.

* * * * *

5. Section 101–6.1008 is amended by adding paragraph (d) to read as follows:

§ 101–6.1008 The role of GSA.

* * * * *

(d) The Secretariat shall assure that follow-up reports required by section 6(b) of the Act are prepared and transmitted to the Congress as directed by the President; either by his delegate, by the agency responsible for providing support to a Presidential advisory committee, or by the responsible agency or organization designated pursuant to paragraph (c) of § 101–6.1011. In performing this function, GSA may solicit the assistance of the Office of Management and Budget and other appropriate organizations, as deemed appropriate.

6. Section 101–6.1009 is amended by revising paragraphs (e), (h) and (i); and by adding paragraphs (j) and (k) to read as follows:

§ 101–6.1009 Responsibilities of an agency head.

* * * * *

(e) A review, at least annually, of the need to continue each existing advisory committee, consistent with the public interest and the purpose and functions of each committee;

* * * * *

(h) The opportunity for reasonable public participation in advisory committee activities;

(i) That the number of committee members is limited to the fewest necessary to accomplish committee objectives;

(j) That the interests and affiliations of advisory committee members are reviewed consistent with regulations published by the Office of Government

Ethics in 5 CFR parts 734, 735, and 737, and additional requirements, if any, established by the sponsoring agency pursuant to Executive Order 12674, the conflict-of-interest statutes, and the Ethics in Government Act of 1978, as amended; and

(k) Unless otherwise specified by the President, the preparation and transmittal of a follow-up report to the Congress detailing the disposition of the public recommendations of a Presidential advisory committee supported by the agency, in accordance with sections 6(b) of the Act.

7. Section 101–6.1011 is amended by revising paragraphs (a) and (b); and by adding paragraph (c) to read as follows:

§ 101–6.1011 Responsibilities of the chairperson of an independent Presidential advisory committee.

* * * * *

(a) Consult with the Administrator concerning the role of the Designated Federal Officer and Committee Management Officer;

(b) Fulfill the responsibilities of an agency head as specified in paragraphs (d), (h) and (j) of § 101–6.1009; and

(c) Unless otherwise specified by the President, consult with the Administrator regarding the designation of an agency or organization responsible for implementing section 6(b) of the Act.

8. Section 101–6.1015 is amended by revising paragraph (a)(1) to read as follows:

§ 101–6.1015 Advisory committee information which must be published in the Federal Register.

(a) * * *

(1) A notice in the **Federal Register** is required when an advisory committee, except a committee specifically directed by law or established by the President by Executive Order, is established, used, reestablished, or renewed. Upon receiving notification of the completed review from the Secretariat in accordance with paragraph (c) of § 101–6.1007, the agency shall publish a notice in the **Federal Register** that the committee is being established, used, reestablished, or renewed. For a new committee, such notice shall also describe the nature and purpose of the committee and the agency's plan to attain fairly balanced membership, and shall include a statement that the committee is necessary and in the public interest.

* * * * *

9. Section 101–6.1035 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101–6.1035 Reports required for advisory committees.

(a) Within one year after a Presidential advisory committee has submitted a public report to the President, a follow-up report will be prepared and transmitted to the Congress as determined under paragraph (d) of § 101–6.1008, detailing the disposition of the committee's recommendations in accordance with section 6(b) of the Act. Reports shall be consistent with specific instructions issued periodically by the Secretariat;

(b) The President's annual report to the Congress shall be prepared by GSA based on reports filed on a fiscal year basis by each agency consistent with the information specified in section 6(c) of the Act. Reports from agencies shall be consistent with instructions provided annually by the Secretariat. Agency reports shall also include information requested to enable the Secretariat to carry out the annual comprehensive review of each advisory committee as required by section 7(b) of the Act. These reports have been cleared in accordance with FIRMR Subpart 201–45.6 in 41 CFR chapter 201 and assigned interagency report control number 0304–GSA–XX.

* * * * *

Dated: August 23, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–23455 Filed 10–4–89; 8:45 am]

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October 5, 1989

Part III

Environmental Protection Agency

40 CFR Parts 51, 52, and 81

Prevention of Significant Deterioration for Particulate Matter; Proposed Rule; Notice of Opportunity for Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, and 81

[AD-FRL-3519-2]

RIN 2060-AC33

Prevention of Significant Deterioration for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of opportunity for public hearing.

SUMMARY: The EPA is proposing to revise the maximum allowable increases (increments) for particulate matter under the requirements for prevention of significant deterioration (PSD) in 40 CFR 51.166 and 40 CFR 52.21. The revisions being proposed would replace the increments presently measured by the total suspended particulate (TSP) indicator with increments that are (1) measured by an indicator that focuses on particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}), and (2) generally equivalent to the current TSP increments.

The proposed increments would define maximum allowable increases in concentrations of PM_{10} as follows: 4 micrograms per cubic meter ($\mu g/m^3$) (annual arithmetic mean) and 8 $\mu g/m^3$ (24-hour maximum) for Class I areas; 17 $\mu g/m^3$ (annual arithmetic mean) and 30 $\mu g/m^3$ (24-hour maximum) for Class II areas; and 34 $\mu g/m^3$ (annual arithmetic mean) and 60 $\mu g/m^3$ (24-hour maximum) for Class III areas.

The EPA is proposing these changes because it believes that the particulate matter increments should be measured by the same indicator as the revised national ambient air quality standards (NAAQS) for particulate matter. The NAAQS were revised to replace the TSP indicator with the new PM_{10} indicator on July 1, 1987 (52 FR 24634).

Under this proposal, it is EPA's intent to continue the existing PSD program for particulate matter but to regulate maximum allowable increases expressed as concentrations of PM_{10} rather than TSP. For the purposes of analyzing and tracking the consumption of the PSD increments for particulate matter, EPA is proposing to (1) retain all existing consumption of the TSP increments (to be recalculated as an amount of PM_{10} increment consumed), and (2) require that all future determinations of increment consumption for particulate matter be based on PM_{10}, beginning on the implementation date of the PM_{10} increments. The TSP increments will remain in effect until the implementation date of the new PM_{10} increments under the applicable PSD requirements for each State.

The EPA is also proposing revisions to the PSD regulations to assure that the existing PSD program for particulate matter will continue in effect while operating in accordance with the proposed PM_{10} increments. The proposed revisions would affect the PSD requirements contained in 40 CFR parts 51 and 52. Part 51 establishes requirements for the preparation, adoption, and submittal of State implementation plans (SIP's); part 52 sets forth the Administrator's approval and promulgation of implementation plans, and establishes the regulations that operate in the absence of an approved SIP.

DATES: Comments on the proposed regulations must be received before December 4, 1989 a public hearing will be held if requested; requests to present oral testimony must be received on or before October 26, 1989. The date and time of the public hearing will be announced in a subsequent **Federal Register** notice. If no one has requested an opportunity to present oral testimony by October 26, 1989, then no hearing will be held. Supporting information used in developing the proposed rules is contained in Docket No. A-88-19. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday.

ADDRESSES: Comments should be mailed (in duplicate if possible) to: EPA Air Docket (LE-131), Attn: Docket No. A-88-19, Room M-1500, Waterside Mall, 401 M Street SW., Washington, DC 20460. The hearing, if requested, will be held in the auditorium at the EPA's Office of Administration, Research Triangle Park, North Carolina.

FOR FURTHER INFORMATION CONTACT: Dan deRoeck at (919) 541-5593. Persons interested in attending the hearing or wishing to present oral testimony should contact Mr. deRoeck, in writing at the U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Management Division, Noncriteria Pollutant Programs Branch, Mail Drop 15, Research Triangle Park, North Carolina 27711.

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

I. Background

A. PSD program
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D. Promulgation of PM_{10} NAAQS and implementation regulations

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B. Legal authority to promulgate PM_{10} increments
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III Description of Approach For Developing Equivalent PM_{10} Increments

A. Class II increments
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IV Implementation Issues

A. Geographic applicability of PM_{10} increments
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E. Grandfathering provisions
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I. Background

A. PSD program

In 1977, Congress amended the Clean Air Act (Act), adding requirements for the prevention of significant deterioration of air quality as Part C of Title I of the Act. Under the PSD program, States are required to adopt a preconstruction review permit program for major new stationary sources and major modifications of stationary sources, and to prevent significant deterioration of existing air quality levels in areas that are in compliance with the NAAQS.[1]

The PSD program mandated by Congress is required to balance three primary goals, as specified by section 160 of the Act. The first of these goals is to protect public health and welfare.

[1] The PSD requirements apply to areas classified pursuant to section 107 of the Act as attainment or unclassifiable. For pollutants for which no NAAQS have been promulgated, and for pollutants not subject to the section 107 area designation process, the PSD requirements apply everywhere as long as an area is designated as attainment or unclassifiable for at least one pollutant for which NAAQS exist (i.e., for at least one "criteria" pollutant).

This goal includes the prevention of significant deterioration of air quality in all areas where the ambient pollutant concentrations required by the NAAQS are currently being achieved. The second goal emphasizes the protection of air quality in national parks, wilderness areas, and similar areas of special concern where air quality is considered particularly important. The third goal is to assure that economic growth in clean air areas occurs only after careful deliberation of the impacts of growth on air quality by the States and local communities.

The PSD program enacted by Congress is implemented in large part through the use of "increments" and area classifications that effectively define "significant deterioration" for individual pollutants. The program also includes a requirement that major new or modified sources of air pollution employ the best available control technology (BACT) for each pollutant subject to regulation under the Act that is emitted in significant amounts.[2] In section 163 of the Act, Congress defined numerical increments for particulate matter and sulfur dioxide (SO_2) as the maximum allowable increases, above baseline levels in the ambient concentration of the pollutants in a PSD area. Thus, the section 163 increments limit the allowable increases in the ambient concentrations of particulate matter and SO_2 in any area that is in compliance with the NAAQS.[3] Congress determined that the particulate matter increment levels adopted in the Act provide for both protection of air quality and reasonable industrial and economic expansion in PSD areas.

The Act's area classification scheme for PSD establishes three classes of geographic areas and applies increments of different stringency to each class. Congress established Class I for areas of special national concern where the need to prevent significant deterioration in air quality is greatest. Consequently, the most restrictive increments apply in Class I areas. Class I areas include all international parks as well as national parks, national wilderness areas, and national memorial parks exceeding certain sizes and existing on the effective date of the 1977 amendments. Section 162(a) prohibits the States or EPA from redesignating these areas to other classifications.

Less restrictive increments apply in areas designated as Class II or Class III. Class II areas are, initially, all PSD areas that are designated as attainment or unclassifiable with respect to the NAAQS and that are not classified in the Act as Class I areas. Class II areas (except statutorily defined Class I areas) may be redesignated by the States to Class I or Class III under certain circumstances. The Class III area designation would permit more deterioration in air quality in specific areas designated by the States for higher levels of industrial development and emissions growth. There are as yet no Class III areas.

B. Baseline dates and baseline areas

In an increment system, the "baseline date" marks the date after which increases in the emissions of a pollutant from any source within a defined geographical "baseline area" will be counted in determining how much increment is available for further economic development, i.e., after this date, increases in emissions "consume" increment. Hence, both the baseline date and the associated baseline area are important factors. For the existing particulate matter increments specified in section 163 of the Act, the ambient air quality on the baseline date is the baseline concentration against which increment consumption is measured. All ambient concentrations resulting from (1) actual emissions from sources in existence on the baseline date, and (2) allowable emissions from major stationary sources permitted before January 6, 1975, but not yet in operation on the baseline date, are part of the baseline concentration for particulate matter.

The PSD definition of "baseline date" provides two reference points for purposes of determining increment consumption: (1) The "major source baseline date" and (2) the "minor source baseline date." [4] The major source baseline date is the date after which emissions changes resulting from construction at any new or modified major stationary source affect the amount of increment used. The Act established January 6, 1975 as the major source baseline date for the statutory increments for particulate matter and SO_2. The "minor source baseline" date is the date after August 7, 1977 on which the first complete PSD application for a major stationary source is submitted in a PSD area. Starting on this date, all emissions increases in the baseline area (including those from minor sources) affect the amount of increment available for future growth. For particulate matter and SO_2, the minor source baseline date has already been established in many PSD areas.

C. PSD program status

The PSD requirements have been incorporated into the Code of Federal Regulations (CFR) under both parts 51 and 52 of Title 40. In part 51, the PSD regulations at section 51.166 set minimum requirements for States for the preparation, adoption, and submittal of a PSD program as part of an approved SIP. In part 52, EPA promulgated PSD requirements at § 52.21 for direct implementation of a PSD program involving the Administrator's preconstruction review and approval of new or modified PSD sources in the absence of a State PSD program under an approved SIP.

Approximately one half of the States have EPA-approved PSD programs for particulate matter (pursuant to § 51.166) incorporated into their SIP's. The remaining States have not submitted approvable programs. The EPA has delegated its authority to issue PSD permits under section 52.21 to most of these States, but continues to issue PSD permits directly for the remaining States.

D. Promulgation of PM_{10} NAAQS and implementation regulations

On July 1, 1987 (52 FR 24634), the EPA adopted final regulations that revised the NAAQS for particulate matter. With these revisions, EPA eliminated TSP as the indicator for the NAAQS and replaced it with the PM_{10} indicator. Both the primary and secondary standards were revised taking into account the most recent scientific information available on the health and welfare effects associated with particulate matter, as well as the change in the ambient indicator for particulate matter.

In the same **Federal Register**, EPA adopted final regulations to implement the revised standards. Included in these final rules were amendments to the PSD requirements, in 40 CFR Parts 51 and 52, to address the new PM_{10} indicator as a regulated form of particulate matter. The EPA did not, however, revise the PSD

[2] The EPA has defined "significant" emissions increases (in tons per year) for pollutants subject to regulation under the Act [see the PSD regulations at 40 CFR 51.166(23)(i) and 52.21(23)(i)]. Using these significance levels, certain small modifications and emissions of certain pollutants at new sources could be exempted from PSD review on the grounds that such emissions would be insignificant, i.e., "de minimis."

[3] The increments for particulate matter enacted by Congress in 1977 and listed in section 163 were based on the NAAQS for particulate matter, which until last year used TSP as the unit of measurement (indicator) for ambient levels of particulate matter.

[4] The terms "major source baseline date" and "minor source baseline date" were added to the definition of "baseline date" when EPA promulgated new PSD increments for nitrogen dioxide (NO_2) on October 17, 1988. These terms clarified points to be used for major and minor sources. See preamble for final NO_2 increment regulations for further discussion of the adoption of these terms (53 FR 40656).

increments for particulate matter at that time to account for the new PM_{10} indicator. Instead, EPA clarified that the existing statutory particulate matter increments were meant to be measured in terms of TSP because that was the indicator for the particulate matter NAAQS when Congress adopted the "particulate matter" increments in 1977. The EPA also announced its intention to promulgate increments based on the new PM_{10} indicator pursuant to section 166 of the Act (52 FR 24672).

The EPA had originally proposed to adopt PM_{10} primary NAAQS but to retain the TSP indicator for the secondary NAAQS [49 FR 10408]. The EPA, therefore, suggested that it might promulgate and implement new PM_{10} increments, and continue to require implementation of the statutory TSP increments as well [50 FR 13147]. The EPA received numerous comments expressing opposition to this "dual increment system" and to the retention of TSP as an indicator for measuring the particulate matter increments. On the other hand, comments received from some State and local air pollution control agencies and other commenters urged EPA to retain the existing TSP increments. Today's action proposes a single set of increments for particulate matter, which would be based on PM_{10}.

In order to implement the PM_{10} increments and to maintain a single increment system, the Administrator suggested that States could request elimination of the area designations within their jurisdiction, made under section 107 of the Act ("section 107 areas") with respect to attainment status relative to the old TSP NAAQS. Through this measure, the existing Class II and Class III particulate matter increments would be rendered inoperative,[5] and the increment program for particulate matter in these areas would be governed by the new PM_{10} increments.

Unlike the Class II and III areas, Federal mandatory Class I areas are defined in the Act without reference to the section 107 area designations. Consequently, EPA cannot redesignate or eliminate Federal mandatory Class I areas in order to render the Class I TSP increments inoperable. To avoid the burdens inherent to a dual increment system, EPA therefore suggested that it might develop PM_{10} increments that are "equivalent in effect" to statutory Class I TSP increments, and allow States to use these new Class I PM_{10} increments as surrogates for the TSP increments (52 FR at 24685–24686).

II. Establishing New Increments for Particulate Matter

A. Existing Section 163 Particulate Matter Increments

In the 1977 Amendments to the Act, as discussed above, Congress set numerical PSD increments in section 163 for both particulate matter and SO_2. In establishing the PSD increments for these two pollutants, Congress used the then existing NAAQS for each pollutant as the benchmark for determining what constitutes "significant deterioration." It set the increments as percentages of the NAAQS level for each pollutant, with the same percentage, 25 percent and 50 percent, respectively, for Class II and Class III. Congress also retained the same averaging times and units of measurement ($\mu g/m^3$) as the NAAQS. Although section 163 does not expressly define the particulate matter increments in terms of a specific indicator, EPA reasoned that Congress' knowledge that TSP was the indicator for the particulate matter NAAQS, and that the TSP standards were the starting point for the increment levels when the increments were established in 1977, meant that TSP was also the appropriate measure for the particulate matter increments in section 163 (52 FR at 24700–24701). As a consequence, EPA concluded that the statutory particulate matter increments could not simply be administratively redefined and considered to be PM_{10} increments following the revision of the particulate matter NAAQS; rather, EPA decided that is must promulgate new particulate matter increments, expressed in terms of the new PM_{10} indicator.

B. Legal Authority To Promulgate PM_{10} Increments

As previously described in the July 1, 1987 PM_{10} notice, EPA believes that it has the authority to promulgate new increments for particulate matter, measured by the new PM_{10} indicator, pursuant to section 166 of the Act (52 FR at 24700). Section 166(a) states that "[i]n the case of pollutants for which national ambient air quality standards are promulgated after the date of enactment of this part, [the Administrator] shall promulgate such regulations [to prevent the significant deterioration of air quality]." Under this authority, EPA recently promulgated PSD increments and associated regulations for NO_2 (53 FR 40656, October 17, 1988). It is not as clear from the face of the statute, however, how Congress intended section 166 to be applied to the circumstances here, where the particulate matter NAAQS and control strategy are redirected to an entirely new indicator (PM_{10}). The EPA, therefore, was faced with the questions of whether section 166 applies to the unique situation presented by PM_{10} and, if so, how it applies.

The EPA has concluded that the statute authorizes the Agency to promulgate new increments for a pollutant when it changes the NAAQS to a new indicator and sets new levels, as the July 1, 1987 revisions did. The PM_{10} NAAQS were not based on the preexisting TSP NAAQS. Instead, they represent a fundamental reexamination of the present understanding of the health and welfare effects associated with ambient particulate matter. Selection of the PM_{10} indicator was based on an abundance of scientific data demonstrating that those particles small enough to penetrate to the sensitive thoracic region of the respiratory tract posed the greatest risk to human health. In addition, EPA determined that the new PM_{10} standards provide sufficient protection for relevant welfare effects associated with ambient particulate matter [6] (52 FR at 24646). In short, the selection of a new indicator and new levels for the standards establishes a new NAAQS for particulate matter for purposes of section 166. The EPA, therefore, believes that with the promulgation of the new PM_{10} NAAQS, it has both the responsibility and authority under sections 166 and 301 of the Act to promulgate new particulate matter increments to be measured in terms of PM_{10}.

The EPA could promulgate new PM_{10} increments and simply add them to the existing TSP particulate matter increments set forth in section 163 of the Act. However, as indicated in the July 1, 1987 **Federal Register** notice, EPA believes that the resulting dual increment system would prove unnecessarily burdensome and cumbersome for permit applicants and for States that would implement it (52 FR at 24701). In addition, retaining the TSP increments after the transition period would appear to make little

[5] Under section 163 of the Act, Class II increments apply to Class II areas, which are defined as areas that have been designated attainment or unclassifiable under section 107 of the Act. The EPA has previously indicated that section 107 areas are pollutant-specific (see 52 FR 24634, July 1, 1987; pp. 24701–2). Therefore, eliminating the section 107 area designation for particulate matter for a particular geographic area results in the existing particulate matter increments being inapplicable to that particular geographic area.

[6] The EPA believes that large particles in sufficient concentrations could present some welfare concerns, but that the PM_{10} NAAQS as promulgated and the controls necessary to meet such NAAQS will adequately address any such concerns (52 FR at 24645–46, and 24700).

sense, because (1) both the primary and secondary particulate matter NAAQS will now be measured exclusively by the PM_{10} indicator, and (2) PM_{10} increments can serve to prevent significant deterioration of air quality for particulate matter as well as can increments measured by the TSP indicator. Thus, EPA believes that promulgating PM_{10} increments to replace, rather than supplement, the statutory TSP increments represents the most sensible approach.

C. Section 107 Area Designations

Section 107(a) of the Act required that each State be divided into air quality control regions (AQCR's). Section 107(d), added by the 1977 Act Amendments, directed each State to submit a list specifying all AQCR's, or portions thereof, as attainment areas (areas in which the NAAQS had been attained), nonattainment areas, or unclassifiable on the basis of available information. Together, these areas are commonly referred to as "section 107 areas." The PSD provisions in part C of the Act generally apply in all section 107 areas that are designated as attainment or unclassifiable (40 CFR 51.166(i)(3)). With respect to the increments for particulate matter, the existing Class II TSP increments (and Class III increments, if there were any) specifically apply to section 107 areas designated as either attainment or unclassifiable for TSP, as long as such areas are not classified as Class I PSD areas.

Because of the importance of the section 107 area designations to the applicability of the TSP increments, the EPA announced in the July 1, 1987 **Federal Register** its position to temporarily retain the TSP area designations beyond the date on which EPA approves a State's revised PM_{10} SIP.[7] This would protect the applicability of the TSP increments until a PM_{10} increment system could be established. The eventual replacement of the TSP increments with PM_{10} increments that operate independently from the section 107 TSP area designations would finally negate the need for EPA to require that these TSP area designations be maintained. Accordingly, in the same **Federal Register**, EPA described an approach whereby the Agency would approve State requests to delete section 107 area designations for TSP (in order to render the Class II and III TSP increments inoperable) simultaneously with its approval to each State's plan revision containing the PM_{10} increments (52 FR at 24701, middle column).

In giving this approach further consideration, EPA now believes that it is not necessary for States to request the deletion of their TSP designations. Instead, with today's notice of PM_{10} increments, EPA is proposing an alternative approach, whereby it would automatically delete the TSP designations from the listing for each State contained in subpart C of 40 CFR part 81. The actual deletion by EPA of the TSP designations for each State would occur at the same time that EPA either (1) approves a State's revised PSD plan containing the PM_{10} increments, (2) approves a State's request for delegation of PSD responsibility under 40 CFR 52.21(u), or (3) promulgates the PM_{10} increments into a State's SIP where a State chooses not to do so (see revised subpart C, 40 CFR part 81).[8] In all cases, it is EPA's intent via this approach that the TSP increments remain in effect until the PM_{10} increments replace them under the applicable PSD program.

As already noted, once the section 107 designations for TSP are deleted for a particular State, the statutory Class II and Class III TSP increments will no longer have any applicability, since those increments by definition apply only in Class II and Class III areas for TSP, respectively, i.e., section 107 areas designated as attainment or unclassifiable for TSP.

The Class I statutory increments are not similarly affected by the deletion of the section 107 area designations, since mandatory Class I areas are defined in the Act without reference to section 107 area designations. However, EPA believes that it can use its authority under sections 166 and 301 to develop Class I PM_{10} increments generally equivalent to the statutory Class I TSP increments, which could serve as surrogates for the statutory increments. With the surrogate PM_{10} increments in place, the statutory TSP increments would no longer be necessary, and would be dispensed with as a regulatory measure. Using the surrogate PM_{10} increments would provide generally equivalent prevention of significant deterioration of air quality in these Class I areas while avoiding the problems inherent to a dual increment system.

D. Selecting Equivalent PM_{10} Increments

In addition to the goals which Congress set forth for the PSD program, section 166(d) of the Act requires any increments or other measures that EPA promulgates under section 166(a) to be "at least as effective as the increments established in section 163" in preventing significant deterioration of air quality. The EPA has considered two approaches for the selection of PM_{10} increments that it believes could be considered to meet this test: (1) the "equivalent to statutory increments" approach, and (2) the "percentage of NAAQS" approach.

The increments derived by either of the two approaches would be expressed as numerical measures and could be implemented similarly to the statutory increments. Moreover, either set of increments would provide clean areas of the country with protection against significant deterioration of air quality, especially since both sets of increments could be implemented by retaining the baseline areas and baseline dates that have already been established for the statutory TSP increments (thereby taking into account the amount of increment already consumed under the existing PSD increments for particulate matter).

1. "Equivalent to statutory increments" approach

One approach is to set PM_{10} increments which will be as nearly equivalent as possible to the section 163 particulate matter increments in their effect on TSP increment "consumption," thereby retaining essentially the same limitations on future deterioration of air quality and economic growth as was allowed under the statutory TSP increments. The PM_{10} increments developed pursuant to this approach could then be regarded as reasonable surrogates for the statutory TSP increments. For this approach, the statutory TSP increments necessarily serve as the benchmark for developing new PM_{10} increments.

Accordingly, EPA considered the amount of TSP increment "consumed" by a sample population of PSD-permitted stationary sources since the

[7] When EPA adopted the final regulations under 40 CFR Part 51 for State implementation of the revised PM_{10} NAAQS, States were encouraged to request redesignation of their TSP nonattainment areas to "unclassifiable" when they submitted their revised implementation plan for attaining the PM_{10} NAAQS (52 FR at 24682). The discussion in today's **Federal Register**, concerning EPA's ultimate deletion of all TSP area designations when States adopt the PM_{10} increments, presumes that State plan revisions for attaining the revised PM_{10} NAAQS will have already been submitted to EPA and approved. If this is not the case, then deletion of the TSP nonattainment area designations will necessarily be delayed. See section IV.B for further discussion.

[8] It should be noted that while EPA intends to delete the TSP area designations, it will not delete the references to the defined geographic areas for which the attainment status designations have been made. This matter is discussed further in section IV.B., Baseline dates and baseline areas.

commencement of the PSD system. The EPA then determined the PM_{10} increment value, for each area classification and averaging time, that would provide an "equivalent" amount of PM_{10} increment consumed for the particular population of sources examined.[9] For example, if a source in a Class II area causes a 24-hour concentration increase of 18.5 $\mu g/m^3$ of TSP over the baseline concentration, then that source consumes 50 percent of the Class II 24-hour increment for TSP (37 $\mu g/m^3$). Then, by estimating the ambient PM_{10} concentrations that such source would cause, a Class II, 24-hour PM_{10} increment could be selected that would result in 50 percent of that new increment being consumed.[10]

Because the annual increment levels derived using this approach were geometric mean values, a conversion factor (1.12) was used to adjust these increments to arithmetic mean values. The proposed Class I PM_{10} increments derived from this approach are 4 $\mu g/m^3$ (annual arithmetic mean) and 8 $\mu g/m^3$ (24-hour). The proposed Class II increments are 17 $\mu g/m^3$ (annual arithmetic mean) and 30 $\mu g/m^3$ (24-hour).

Class III increments were derived in a different manner because currently there are no Class III areas for particulate matter. The EPA, therefore, chose Class III PM_{10} increments that are double the levels of the Class II PM_{10} increments, using the precedent set by Congress in selecting Class III increments for particulate matter and SO_2 that were twice as large as the respective Class II increments.[11] Thus, the proposed Class III PM_{10} increments are 34 $\mu g/m^3$ (annual arithmetic mean) and 60 $\mu g/m^3$ (24-hour).

2. "Percentage of NAAQS" approach

A second approach would be for EPA to establish PM_{10} increments that bear the same percentage relationship to the new PM_{10} NAAQS as the section 163 TSP increments bear to the TSP NAAQ from which they were derived.[12] Thus, the percentage of NAAQS approach would define equivalent amounts of "significant deterioration" relative to the standards from which the increments are derived. The EPA considered this approach because the legislative history of the 1977 Clean Air Act Amendments demonstrates that Congress selected the various section 163 increment levels by using such an approach [see H.R. Rep. No. 95–564, 95th Cong., 1st Sess. (1977), reprinted in *3* A Legislative History of the Clean Air Act Amendments of 1977 ("Legislative History"), at 528–531; H.R. Rep. 95–294, 95th Cong., 1st Sess. at 153, reprinted in *4* Legislative History, at 2620]. For both TSP and SO_2, the two pollutants for which PSD increments were established in section 163, Congress chose Class II increments that were 25 percent of the lowest standard and Class III increments that were 50 percent of the lowest standard. For Class I areas, the TSP increments selected were 6.7 percent of the lowest standard, while the SO_2 increments selected were 2.5 percent of the lowest standard.

Congress established the original increment levels to provide an appropriate balance between protecting air quality and providing an adequate margin for industrial growth. The PM_{10} increment levels that would result from using this same percentage-based approach would reflect a similar balance, because industrial sources typically would not be prevented from constructing in an area where the full Class II increment is available. Also, since the new PM_{10} NAAQS are based on EPA's latest findings regarding harm to health and welfare posed by particulate matter, this approach reflects an equivalent evaluation for PM_{10} to that used by Congress in choosing the section 163 increments from the TSP standards.

The PM_{10} levels of both the primary and secondary NAAQS are 50 $\mu g/m^3$ for the annual standard; and 150 $\mu g/m^3$ for the 24-hour standard (40 CFR 50.6). Using the "percentage of NAAQS" approach, the Class I PM_{10} increments would be 3 $\mu g/m^3$ (annual arithmetic mean) and 10 $\mu g/m^3$ (24-hour). These values are 6.7 percent of the annual and 24-hour standards, respectively. The Class II PM_{10} increments would be 13 $\mu g/m^3$ (annual arithmetic mean) and 37 $\mu g/m^3$ (24-hour), i.e., 25 percent of the respective standards. The Class III PM_{10} increments would be 25 $\mu g/m^3$ (annual arithmetic mean) and 75 $\mu g/m^3$ (24-hour), i.e., 50 percent of the respective standards.

3. Comparison of increment levels

The EPA compared the PM_{10} increment levels derived from both the "equivalent to statutory increments" and "percentage of NAAQS" approaches. This comparison indicated that, for the annual averaging time, PM_{10} increments derived from the "percentage of NAAQS" approach would establish lower maximum allowable increases in concentrations of PM_{10} than would PM_{10} increments derived from the "equivalent to statutory increment" approach. The difference between the levels for the annual increments using the two independent approaches is lessened somewhat by taking into account the fact that the deterministic annual increments would possess lower levels if expressed as equivalent statistical annual increments.[13]

For the 24-hour averaging time, which is typically the more critical averaging time for source impact analyses, the differences in the numerical levels were more significant than were the annual increment differences. The numerical levels of the statistical PM_{10} increments (derived from the "percentage of NAAQS" approach) are larger than the levels of the deterministic PM_{10} increments (derived from the "equivalent to statutory increment" approach) and would appear to allow for considerably greater increases in concentrations of PM_{10}. However, to identify the actual difference between the two sets of 24-hour increments, they must be stated in the same form, i.e., either as statistical or deterministic increments.

The EPA assessed the general relationship between the statistical and deterministic forms for the 24-hour averaging time (Tikvart, 1989). Based on this analysis, the level of a statistical increment would be lower than the level of its equivalent deterministic counterpart. Thus, if the deterministic 24-hour increment levels derived from the "equivalent to statutory increments" approach were to be expressed as equivalent statistical increments, they

[9] Because stationary sources emit particulate matter with varying PM_{10}/TSP emissions ratios, it is not possible to select PM_{10} increments that represent the same percentage of TSP increment consumption for all stationary sources.

[10] The actual derivation of PM_{10} increments for Class I, II, and III areas using the "equivalent to statutory increments" approach is described more fully in section III and in the docket for this proposed action.

[11] Congress selected Class II increments that were 25 percent of the respective NAAQS, and Class III increments that were 50 percent of the respective NAAQS.

[12] Unlike the PM_{10} NAAQS, which provides for the same levels for both the primary and secondary standards, the TSP NAAQS has lower levels for the secondary NAAQS. The section 163 particulate matter increments were based on the lower secondary level for the 24-hour concentration, but relied on the annual primary value because the lower value associated with the secondary "standard" was regarded only as a guide for attainment purposes.

[13] In proposing the statistical form for the PM_{10} NAAQS, EPA assessed the relationship between statistical and deterministic forms of an annual standard. Based on this analysis EPA found that, on average, the level of an annual statistical standard equivalent to a deterministic standard would be approximately 0.9 times the level of that deterministic standard (49 FR 10408, March 20, 1984, p. 10413).

would have lower numerical values. This would support the original finding that the 24-hour increments derived from the "percentage of NAAQS" approach would allow for greater increases in concentrations of PM_{10} than would the increments derived from the "equivalent to statutory increments" approach.

The EPA has already used the "percentage of NAAQS" approach, and believes that it is an appropriate approach to consider in general for setting PSD increments.[14] This approach is simple to implement and reflects the methodology which Congress used to establish the SO_2 and TSP increments in section 163 of the Act. However, EPA is today proposing to establish PM_{10} increments using the "equivalent to statutory increments" approach because it believes that PM_{10} increments derived from the statutory (TSP) increments better match congressional intent in the special case where the new increments for particulate matter are intended not only to prevent significant deterioration of PM_{10} air quality, but also to replace (rather than supplement) the existing section 163 increments for particulate matter.

Increments established under the "equivalent to statutory increments" approach preserve roughly the same growth opportunites and limitations on deterioration of air quality as that established by Congress in section 163. Although the numerical levels would be established to reflect the PM_{10} component of particulate matter, this approach would preserve to the greatest extent possible the effects of the increments established by Congress. In other words, the new PM_{10} increments would attempt to mirror the statutory paticulate matter increments and reflect, in the aggregate, the level of increment that would have been consumed if the PM_{10} increments (rather than TSP increments) has been in place since 1977. Therefore, EPA is proposing PM_{10} increments derived from the "equivalent to statutory increments" approach under today's notice.

The EPA solicits comment on today's proposal concerning new PM_{10} increments which would replace the existing TSP increments under section 163 of the Act. In particular, EPA invites commenters to respond to the following topics: (1) The rationale for proposing PM_{10} increments under the "equivalent to statutory increments approach"; (2) the rationale for not proposing PM_{10} increments under the "percentage of NAAQS" approach; (3) the numerical levels of the proposed PM_{10} increments; and (4) whether the proposed increments would serve as adequate surrogates for the TSP increments.

[14] The EPA followed the "percentage of NAAQS" approach in developing the NO_2 increments, promulgated on October 17, 1988 (53 FR 40657). In that case, however, there were no statutory increments for nitrogen oxides from which new NO_2 increments could be derived.

III. Description of Approach for Developing Equivalent PM_{10} Increments

This section describes the procedures that EPA followed in developing PM_{10} increments that it believes are generally equivalent to the statutory Class II, Class III, and Class I increments, respectively. As described in detail below, the development of these PM_{10} increments involved two important steps. The first step was to convert the levels of the TSP increments to equivalent PM_{10} levels. The second step was to convert the resulting levels of the equivalent PM_{10} annual increments from geometric means values (the basis for the TSP NAAQS) to arithmetic mean values (the basis for the PM_{10} NAAQS).

A. Class II Increments

For Class II increment selection, EPA based its proposed PM_{10} increment levels on information in an existing new source review (NSR) data base. The NSR data base, developed by EPA, consists of information from over 500 existing PSD/NSR permits issued nationwide for criteria pollutant emissions between 1977 and 1984. There were 249 permits issued for particulate matter emissions having sufficient information to estimate PM_{10} emissions and, subsequently, PM_{10} increment consumption from each source. The population of permits used is believed to be representative of most PSD/NSR applications.

First, EPA plotted a distribution of the predicted air quality impacts of TSP (taken directly from the NSR data base) for each of the 249 sources. By plotting the sources according to the magnitude of their TSP impacts, EPA could determine the number of sources (expressed as a percentage of the total number of sources) with predicted TSP impacts at or below a given value. A similar distribution of PM_{10} air quality levels was plotted using (1) the projected TSP air quality levels reported by the source, and (2) PM_{10} emission factors to estimate PM_{10} emissions for emission units at the source within the 249 sources. A detailed description of the methodology is presented in a report entitled "Technical Report—Equivalency of Alternative PM_{10} Increments" (Radian Corp., March, 1989). This document is available in the docket for public inspection.

Based on the predicted ambient TSP and PM_{10} impacts, EPA calculated the percent increment consumption (for the annual and 24-hour averaging periods) for each source based on the statutory TSP increments and various trial PM_{10} increments. The trial PM_{10} increment levels were 13, 14, 15, 17, and 18 $\mu g/m^3$ (annual geometric mean); and 28, 30, 33, and 37 $\mu g/m^3$ (24-hour maximum).

A comparison of the TSP and PM_{10} increment consumption data provided the basis for determining which of the alternative PM_{10} increment levels would result in the same average percent increment consumption as the existing TSP increment consumption. This comparison was performed by calculating the area under the curves representing the distributions plotted for each increment alternative. For each PM_{10} increment alternative, EPA calculated an "increment consumption index." This index represents the amount of PM_{10} increment consumed on a source-aggregated basis relative to the amount of TSP increment consumed on a source-aggregated basis. The increment consumption index value for each PM_{10} increment alternative is shown in Table 1.

TABLE 1—NATIONWIDE IMPACTS OF ALTERNATIVE CLASS II AREA PM_{10} INCREMENTS

Alternative class II PM_{10} increments[a] ($\mu g/m^3$)	Increment consumption index[b]/mean[c]
24-Hour average:	
PM_{10}-28	108
PM_{10}-30	100
PM_{10}-33	91
PM_{10}-34	88
PM_{10}-37	81
Annual average:	
PM_{10}-13	118
PM_{10}-14	110
PM_{10}-15	100
PM_{10}-17	90
PM_{10}-18	85

[a] M_{10}—28 refers to a PM_{10} increment alternative with a numerical value of 28 $\mu g/m^3$.
[b] The increment consumption index values are a relative indicator of nationwide increment consumption under the Class II increment PM_{10} alternatives. Each value is relative to the existing TSP increment baseline value which is normalized to a value of 100.
[c] Based on the mean PM_{10} air quality impacts distribution.

As Table 1 illustrates, the Class II PM_{10} increment levels of 15 $\mu g/m^3$ (annual geometric mean) and 30 $\mu g/m^3$ (24-hour maximum) are associated with an increment consumption index of 100. This means that these PM_{10} increment levels result in the same overall amount of increment consumption as the TSP increments on a source-aggregated basis. Selection of these PM_{10} increments should provide air quality

protection that is roughly equivalent to the TSP increments.

The EPA recognizes, however, that individual sources could be affected differently with respect to the amount of "equivalent" PM_{10} increment that each would consume, depending on localized conditions and the PM_{10} emissions fraction for emission units at a given source. Consequently, EPA further examined the equivalent Class II PM_{10} increments to determine their impacts relative to several specific criteria. These criteria included the following: (1) The number of sources and source types with PM_{10} increment consumption above and below TSP increment consumption, (2) the extent to which a source's PM_{10} increment consumption exceeds or falls below TSP increment consumption, (3) the availability of control technology to bring new sources into compliance with the proposed PM_{10} increments, and (4) the cost of bringing new sources into compliance with the equivalent PM_{10} increments. The impacts associated with the equivalent PM_{10} increment levels of 15 $\mu g/m^3$ (annual geometric mean) and 30 $\mu g/m^3$ (24-hour maximum) are discussed below.

The EPA examined the 249 sources in the NSR data base in order to determine the difference between TSP increment consumption and PM_{10} increment consumption (based on the selected equivalent PM_{10} levels) for each individual source. The results of this analysis showed that some sources consume more of the available increment under the equivalent Class II PM_{10} increments than under the existing TSP increments, and some sources consume less. There was essentially no difference in the percentage of increment consumed (i.e., less than 5 percent difference) for about 91 percent of the 249 NSR data base sources. A detailed summary of this examination is presented in the referenced Technical Report available for public inspection in the docket.

Of the 249 individual sources that were examined, only four were projected to exceed the equivalent PM_{10} increment levels. These sources included: (1) A petroleum refinery located at a synthetic fuels plant, (2) a steel fabrication plant, (3) an electric utility, and (4) a food processing facility. This projection assumes that the sources would apply the same level of control as they applied to meet the TSP increments. Upon closer examination of these specific sources, EPA has determined that exceedances of the PM_{10} increment by sources of these types are not likely to occur. This judgment was based on (1) The unusual characteristics of three of the affected sources relative to other sources of these types (i.e., they were located in complex terrain); and (2) the availability of existing control technologies that could be applied to ensure that similar new sources would not exceed the PM_{10} increments.

For all four source types, control technology is available that can bring new sources of these types into compliance with the proposed PM_{10} increments. A cost and economic evaluation of these sources was performed as part of an impact assessment (described in Section V of this preamble). The evaluation showed that no unreasonable economic impacts would be imposed on future sources to achieve compliance with the proposed PM_{10} increments. Details on the cost and economic evaluation are presented in a report entitled "Cost and Economic Impact Assessment for PM_{10} Increment Options" (Radian Corp., April 1988). This report is available in the docket for public inspection.

B. Class III Increments

There are currently no Class III areas. For selection of equivalent Class III PM_{10} increments, EPA also followed the approach used by Congress to establish Class III TSP increments when it simply doubled the Class II increments. Using this approach, EPA proposes to establish the Class III PM_{10} increments at twice the level of the Class II PM_{10} increments. Consequently, the equivalent Class III PM_{10} increments would be 30 $\mu g/m^3$ (annual geometric mean) and 60 $\mu g/m^3$ (24-hour maximum).

C. Class I Increments

There have been relatively few major sources constructed in the vicinity of Class I areas, which emit significant amounts of particulate matter. Consequently, there is significantly less information available on current patterns of particulate matter increment consumption for Class I areas than is available for Class II areas. In selecting Class I increments, EPA did not attempt to compare the percentages of TSP increment and PM_{10} increment consumed on an aggregated basis, as was done for the Class II increment analysis. Instead, EPA examined directly the TSP and PM_{10} impacts of 16 sources in the NSR data base, with known Class I area TSP impacts.

For 12 of the 16 sources, EPA relied on the Class I area TSP impacts reported in the data base to estimate the maximum Class I area PM_{10} impacts. The estimated PM_{10} impacts were derived from the TSP impacts after first calculating a PM_{10}-to-particulate matter emissions ratio for each source. The resulting ratios were then applied to the known TSP impacts. For the remaining four sources, EPA modeled each one based on particulate matter emissions data and source characteristics contained in the NSR data base to project the TSP and PM_{10} ambient impacts. The referenced Technical Report provides the details of this analysis and is available for public inspection in the docket for this proposed rulemaking.

Based on its examination of the percentage of increment consumed by each of the 16 sources, the EPA believes that PM_{10} increments of 4 $\mu g/m^3$ (annual geometric mean) and 8 $\mu g/m^3$ (24-hour maximum) are the most appropriate PM_{10} levels to serve as surrogates for the existing TSP increments. For several of the sources, the selected PM_{10} levels would result in a greater portion of PM_{10} increment being consumed than of TSP increment. In no case, however, would a PM_{10} increment violation be predicted.

Although EPA believes that these PM_{10} increment levels will afford Class I area protection that is generally equivalent to the protection provided by the existing TSP increments, the relative stringency of the increments could vary by source type, depending on the PM_{10}-to-particulate matter emission ratios for individual sources. For example, a source that emits a small volume of PM_{10} relative to the entire volume of particulate matter emitted conceivably could comply with the PM_{10} Class I increments while still emitting more total particulate matter than would be allowed under the existing increment.

Recognizing the small data base that was available to develop the equivalent Class I PM_{10} increments, EPA sought another way to analyze the potential impacts of other sources on the selected PM_{10} increment levels. For the purposes of this additional analysis, it was assumed that the 249 particulate matter sources included in the NSR data base were located near enough to Class I areas so that the point of maximum impact would occur in the Class I area; although, in fact, this would only be true of 16 of those sources. Through this analysis, it was determined that only 2 of the 249 sources in the data base (or less than 1 percent) would exceed the existing Class I TSP increments while complying with the equivalent Class I PM_{10} increments. Based on this larger sample of sources, it would be expected that the number of sources whose impacts would potentially exceed the existing Class I TSP increments while complying with the PM_{10} increments, would be very small.

While EPA believes that the results of this analysis help to demonstrate that the selected PM_{10} increments can reasonably serve as surrogates to the statutory TSP increments, it is also important to recognize that, in Class I areas, the increments have a special function that does not apply to the increments in Class II and Class III areas. In Class I areas, increments are a means of determining which party (the applicant or the permitting agency) has the burden of proof with respect to demonstrating any specific adverse impacts of a proposed PSD source within a Class I area. Congress recognized that Class I areas tend to have unique air quality concerns and, in section 165 of the Act, set forth procedures to afford special provisions beyond the use of Class I increments.

The mechanism created by Congress for achieving the extra degree of protection for Class I areas relies on the authority vested in the Federal land managers (FLM's) who oversee Class I areas to review and comment on PSD permit applications that may show specific adverse impacts in a Class I area. Such specific adverse impacts are determined relative to air quality related values (e.g., visibility) which may be defined by the FLM.

Through this special procedure set forth by Congress, FLM's have the authority to request that a permit application for a new or modified source affecting Class I areas be denied or that additional controls be required, even if the source demonstrates that it will not cause or contribute to a violation of a Class I increment.

D. Selecting the Form for the PM_{10} Increments

The levels of the equivalent PM_{10} increments that result from the "equivalent to statutory increments" approach must initially bear the same deterministic form as the statutory TSP increments. This means that (1) for the annual increments, the values are expressed as mean concentrations which cannot be exceeded in a single year, and (2) for the 24-hour increments, the values are 24-hour average concentrations which cannot be exceeded more than one time in a single year. In addition, the annual increments are stated as geometric mean values.

In contrast, the PM_{10} NAAQS are expressed in a statistical form. That is, the PM_{10} annual NAAQS is an expected arithmetic mean concentration, while the PM_{10} 24-hour NAAQS is a 24-hour average concentration for which a single expected exceedance per year is allowed. In the statistical form, the expected value is actually an average value derived from several years of data, against which the annual or 24-hour NAAQS is compared. The prescribed method for calculating these expected values for the PM_{10} NAAQS is contained in 40 CFR Part 50 Appendix K.

In order to be completely consistent with the form of the PM_{10} NAAQS, three separate conversions, involving three different conversion factors, would need to be made. Two of these conversion factors would be used to adjust the annual and 24-hour increments to the statistical form (each averaging time requires its own independent adjustment). The third conversion factor would be used to adjust from an annual geometric mean value to an annual arithmetic mean value (for the annual averaging time only).

The EPA believes that either the deterministic or statistical form would be acceptable as long as the numerical levels of the increments could be adjusted accordingly to retain their equivalent relationship to the statutory TSP increments. The EPA has decided to propose the increments in the deterministic form in order to eliminate the need for applying two of the conversion factors. This decision was based primarily on the difficulty that EPA would experience in attempting to replicate the source-by-source equivalency analyses which were conducted using deterministic source impact data in the NSR data base.

The EPA does believe, however, that there is a practical need to establish the annual PM_{10} increments as arithmetic mean values instead of the geometric mean values. Current EPA models are designed to compute arithmetic means, rather than geometric means. Furthermore, EPA believes that most PSD applications received to date by the States and EPA contain increment analyses in which the modeled predictions of annual increases in concentrations of TSP are based on arithmetic mean concentrations, rather than geometric mean concentrations.

The use of an arithmetic mean value in predicting source impacts on air quality is generally acceptable, because it tends to yield a more conservative (higher) concentration estimate than the geometric mean concentration derived from the same set of data. However, over time, unless EPA makes the conversion to an arithmetic mean value, PSD applications eventually will find it necessary to calculate their predicted air quality impacts as a geometric mean concentration. That is, as less available increment remains for additional emissions growth, use of the more conservative approach will no longer suffice for making compliance demonstrations.

To adjust to an arithmetic mean value, EPA used information that was developed from an analysis of 11,541 site-years of TSP data (1975–1978) nationwide. The data were analyzed to determine, on a single year basis, the percent difference between the annual arithmetic mean and the annual geometric mean. The analysis indicated that the typical ratio (at the 50th percentile) was 1.12. In other words, the annual arithmetic mean was typically 12 percent higher than the annual geometric mean.

Accordingly, EPA is adjusting the equivalent annual PM_{10} increments, derived from the statutory annual TSP increments (geometric), to arithmetic mean values using the 50th percentile ratio of 1.12. The annual increments expressed as arithmetic means (rounded to the nearest whole number) are as follows (with the equivalent PM_{10} increment expressed as geometric means in parentheses): Class I—4 $\mu g/m^3$, PM_{10} annual arithmetic mean (5 $\mu g/m^3$, annual geometric mean); Class II—17 $\mu g/m^3$, PM_{10} annual arithmetic mean (15 $\mu g/m^3$, annual geometric mean); Class III—34 $\mu g/m^3$, PM_{10} annual arithmetic mean (30 $\mu g/m^3$, annual geometric mean).

IV. Implementation Issues.

A. Geographic Applicability of PM_{10} Increments

On the applicable implementation date (see section IV.D.), the proposed PM_{10} increments generally would apply everywhere. This is in accordance with 40 CFR 51.166(i)(3) [see also § 52.21(i)(3)] which stipulates that the PSD review applied to any new major stationary source or major modification that would propose to locate in an area designated as either attainment or unclassifiable for any pollutant.[15] Only in the case of an area designated as nonattainment for all pollutants would the PSD requirements fail to apply to PM_{10}. However, because no such complete nonattainment area status currently exists, EPA has chosen not to propose revisions to the regulatory framework applying PSD to PM_{10}.

The EPA intends for the PM_{10} increments to apply in a manner consistent with the latest PSD area

[15] In addition to the current area designations for TSP, States are required under section 107 of the Act to identify the attainment status for other criteria pollutants, including sulfur dioxide, nitrogen dioxide, ozone, and carbon monoxide. The EPA maintains a listing of all area designations in 40 CFR Part 81 Subpart C.

classifications, i.e. Class I, II, and III, which apply to the TSP increments proposed to be replaced. However, where an area was previously designated as nonattainment for TSP, the Class II PM_{10} increments will apply unless the area is designated as a Class I area [see 40 CFR 51.166(e) and § 52.21(e)]. States may redesignate area classifications for PM_{10} in accordance with the redesignation procedures set forth under 40 CFR 51.166(g) [also § 52.21(g)].

B. Baseline Dates and Baseline Areas

Under today's action, EPA is proposing its intention to retain the existing baseline dates and baseline areas that have already been established for particulate matter. The EPA believes that it is necessary to provide continuity with respect to the starting date for measuring the particulate matter increments in order to asure the "equivalence" concept that EPA has selected for establishing the new PM_{10} increments. The major source baseline date, therefore, will continue to be January 6, 1975, and the minor source baseline date will be the earliest date after August 7, 1977, on which the first complete PSD application is submitted by a major source with significant particulate matter emissions.

The retention of existing baseline dates and baseline areas for particulate matter includes those established under EPA-approved State PSD programs, as well as the ones established under EPA's 40 CFR part 52 PSD regulations. Thus, once the new PM_{10} increments are approved by EPA as part of the States' PSD SIP's, the amount of PM_{10} increment already used (if the baseline date has already been established for TSP) must be calculated in accordance with the baseline date established under the original TSP increments. An established baseline date for TSP would remain in effect even if the PSD source would not have triggered such date based on its potential PM_{10} emissions [see proposed new paragraph (b)(14)(iv) under 40 CFR 51.166 and § 52.21].

Where the baseline date for particulate matter has not yet been established, it will be the date after the applicable PM_{10} increment implementation date on which the first complete PSD application is submitted by a major new source or major modification having the potential for significant amounts of PM_{10} emissions. That is, EPA's policy will be to require that any new baseline dates for particulate matter under the PM_{10} increments be established when the source or modification would have the potential to emit as least 15 tons per year or more of PM_{10} emissions, (i.e., the significant emission rate defined for PM_{10}), rather than 25 tons per year or more of particulate matter emissions. See further discussion of how the two different significant emission thresholds will be applied in the following section, "Source applicability."

Baseline areas that are established after the implementation date for the new PM_{10} increments must include the "PSD area" in which the proposed source or modification would be located and any other "PSD area" in which the source or modification would have an ambient PM_{10} impact of at laest $1\mu g/m^3$ (annual average). The PSD areas referred to would initally be circumscribed by the geographic boundaries which the States set forth to define the section 107 attainment designation status (including nonattainment) for TSP. These boundaries are listed as the "designated area" under Subpart C of 40 CFR part 81.

As mentioned earlier in this preamble, EPA plans to automatically delete the applicable attainment status designations for TSP when the equivalent PM_{10} increments are in place in a State's SIP. In doing so, EPA will retain references to the geographic boundaries ("designated areas") associated with the designations. These "designated areas," including the ones previously holding a TSP nonattainment designation, will then be listed in Subpart C as PSD areas for PM_{10}. It should be noted, however, that the "automatic" deletion of an area's TSP designation from 40 CFR part 81 will occur only after a PM_{10} SIP providing for implemention of the PM_{10} NAAQS has been approved, or EPA promulgates a substitute Federal plan. If such a revised PM_{10} SIP has not been approved, EPA will need to retain the TSP area designation, even though it is revising part 81, as described above, to list the area boundaries for purposes of identifying PM_{10} baseline areas. Ultimately, EPA anticipates that all TSP area designations will be removed and the "designated areas" associated with them will become PSD areas for determining PM_{10} increment baseline areas.

The EPA is also proposing to revise the definitions of "baseline area" and "baseline date" in parts 51 and 52 to account for the new PSD area listings for PM_{10}. Since the PSD areas for PM_{10} will have no direct linkage to the section 107 area process, language is proposed to be added to the definitions of "baseline date" and "baseline area" to refer specifically to the PSD areas for PM_{10} as they are listed in Subpart C of 40 CFR part 81 [see proposed revisions to 40 CFR 51.166(b) (14) and (15), and § 52.21(b) (14) and (15)].

C. Source Applicability

Only "major stationary sources" and "major modifications" (i.e., major stationary sources incurring a significant net increase in emissions) are subject to PSD review. A major stationary source is defined in 40 CFR 51.166(b)(1)(i) as any stationary source that emits, or has the potential to emit, a threshold amount of pollution for "any pollutant subject to regulation under the Act." For sources in any one of 28 specified source categories, that threshold is 100 tons or more per year; for all other sources, the threshold is 250 tons or more per year.

The EPA believes that the determination of whether a source is a major stationary source should continue to be based on potential "particulate matter emissions," [16] since particulate matter emissions continue to be regulated under a variety of section 111 new source performance standards. (See 40 CFR part 60 *et seq.*) For the reason, EPA does not intend to change the way in which a new source is determined to be "major" for particulate matter.

Similarly, EPA does not intent to make any changes to the emission rates which define "significant" for particulate matter. That is, significant amounts of particulate matter will continue to be calculated in terms of both particulate matter emissions and PM_{10} emissions. Accordingly, a new stationary source which has the potential to emit any pollutant in major amounts will be subject to PSD for particulate matter, if such major stationary source would emit significant amounts of either particulate matter emissions (25 tons per year) or PM_{10} emissions (15 tons per year). An existing major stationary source will also be subject to PSD review if, after accounting for creditable emissions increases and decreases caused by a modification, a significant net emissions increase of either particulate matter emissions or PM_{10} emissions is determined to result.

Under today's proposal, it will be EPA's policy to require any PSD source which would have the potential to emit significant amounts of either particulate matter emissions or PM_{10} emissions to undergo PSD review. However, in

[16] "Particulate matter emissions" are defined as all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method, specified by EPA or by a test method in an approved SIP [40 CFR 51.100 (pp)].

completing this review, a PSD applicant would only be required to perform an ambient impact analysis (NAAQS and PSD increments) for particulate matter when the proposed new source or modification would have the potential to emit PM_{10} emissions in significant amounts.

D. Implementation Date

There are several important time periods specified by section 166(b) of the Act that will affect the implementation of the increments for PM_{10}. First, a 1-year time period is required by section 166(b) between the date of promulgation of section 166 regulations and the effective date of such regulations. Second, section 166(b) of the Act also provides States up to 9 months following the effective date of promulgation of the new regulations to prepare necessary amendments to SIP's, and an additional 4 months (13 months total) for EPA to review the proposed SIP revisions prior to determining their approvability. Consequently, a period of up to 25 months (12 months from promulgation to the effective date, plus 13 months for SIP approval) could elapse between the promulgation of these increments and their implementation. Until the actual implementation date of the new PM_{10} increments in any State's PSD SIP, the TSP increments will continue to apply.

The actual time that elapses between promulgation and implementation depends on two factors: (1) The mechanism by which the PSD program is implemented in an area, and (2) the action a State or area takes to enable it to implement the program. There are three mechanisms by which the PSD program is implemented. First, a State can have its own PSD permitting procedures that have been approved by EPA as meeting the requirements of 40 CFR 51.166; this is termed an EPA-approved PSD SIP program. Second, a State can receive a delegation of EPA's authority to issue PSD permits in accordance with the Federal PSD regulations in 40 CFR 52.21; this is termed a delegated PSD program. Finally, in a few areas of the country where States have neither submitted an approvable PSD SIP nor sought a delegation, and in Indian lands where States lack authority to administer the PSD requirements, EPA Regional Offices issued PSD permits pursuant to 40 CFR 52.21.

For EPA-approved programs, section 166(b) of the Act contemplated a 40 CFR 51.166 rule that would take effect 12 months after promulgation and allow States 9 months after that (21 months after promulgation) to submit revised SIP's incorporating the increments. The EPA was then expected to approve or disapprove the SIP revision within 4 months, so the maximum time anticipated for implementation in SIP-approved areas is 25 months. The EPA will follow this schedule for the PM_{10} increments. Each State or area with an EPA-approved PSD program will have until 21 months after promulgation of the increments to submit to EPA a SIP revision implementing them. Revised SIP's may, of course, be submitted earlier, but EPA cannot approve any such revisions until 12 months after the date of promulgation of the PM_{10} increments under § 51.166.

For States that currently lack approved PSD plans, and for Indian lands, EPA proposes a similar implementation schedule for the PM_{10} increments and associated regulations. The EPA believes that it should follow the language of section 166 to the greatest extent possible in establishing implementation dates for these areas. Specifically, section 166(b) provides up to 21 months from the date of promulgation of section 166 regulations for States to submit SIP revisions to EPA for approval. The EPA believes it appropriate to provide each State an opportunity to develop an EPA-approved PSD SIP program. For this reason, every State will be provided 21 months in which to develop and submit a revised SIP for PSD, including any PM_{10} increments ultimately promulgated pursuant to today's proposal. This approach should also minimize differences in implementation dates between the States due to differences in PSD program mechanisms. The EPA proposes to establish a general effective date of 25 months after publication of the final notice for the PM_{10} increments and associated regulations promulgated pursuant to § 52.21.

It should be noted, however, that as events actually unfold over that 25-month period, the implementation date for the PM_{10} increments could occur in some SIP's at times other than the generally applicable effective date. First, a State might adopt and submit the necessary SIP revisions (perhaps as part of a comprehensive PSD permitting program) and EPA might approve them, all between the 12-month and 25-month points. Second, EPA might advance the general effective date in the case where a State stipulates, in writing, that it does not intend to submit the necessary SIP revisions (thereby rejecting the 21-month SIP development time provided in the Act), and requests that EPA delegate to it (i.e., the State) the administration of the PM_{10} increments in lieu of the TSP increments currently contained in § 52.21.

Similarly, if an Indian tribe requests in writing an earlier effective date, EPA will consider advancing the effective date in accordance with the tribe's wishes. The EPA will make a case-by-case judgment based on all of the circumstances at the time of the request. The EPA would in no event make those amendments effective any earlier than the 12-month point established for the amendments to § 51.166.

E. Grandfathering Provisions

The EPA anticipates that the Agency and the States will receive numerous PSD permit applications, which contain a TSP increment analysis, before the applicable implementation date of the PM_{10} increments. In cases where these applications are considered to be complete based on the existing requirements on the date that they were submitted, yet a permit has not yet been issued by the reviewing authority, EPA believes that it would be appropriate to exempt the applications from any PM_{10} increment analysis and requirements. In order to provide for such exemptions, EPA is proposing to add grandfathering provisions to the PSD regulations under both part 51 and part 52. The new provision would apply only as to consideration of the PM_{10} increments. Any SIP requirements already in effect for PM_{10} (e.g., PM_{10} NAAQS compliance), before the implementation date of the PM_{10} increments must be met as provided for in the existing PSD program.

For applications submitted under EPA's part 52 PSD regulations, the Agency is proposing a grandfathering provision at § 52.21(i)(13). This paragraph states that the amendments requiring a PM_{10} increment analysis would not apply to any project for which a complete application has already been filed, including a project that has already received a permit before the implementation date of the relevant amendments to § 52.21. Instead, such projects would be reviewed only for their ability to demonstrate compliance with the original TSP increments.

The EPA is also proposing to add a parallel grandfathering provision under part 51 that would allow a State to enact a similar exemption under it's SIP-approved program. In the case of a State's own PSD requirements, the exemption would be based on the submission of a complete PSD permit application before the State's implementation date for the PM_{10} increments [see proposed new paragraph (i)(12) under § 51.166]. Of course, a State would be free to have a more restrictive exemption, or no

exemption at all, if it deemed any such alternative course of action more appropriate.

F. Exclusions from Increment Consumption

Section 163(c)(1) of the Act provides that States with EPA approved PSD plans may "issue orders or promulgate rules" to exclude concentrations from certain emission-related activities in determining compliance with the PSD increments. When States revise their SIP's to adopt the new PM_{10} increments, they may adopt exclusions for certain concentrations of particular matter, which had not been previously considered for the TSP increments [see 40 CFR 51.166(f)]. "Prescribed burning" is an example of the types of activities for which an exclusion might be sought.

"Prescribed burning" is a term for a wide variety of silvicultural, agricultural, industrial, and commercial practices involving the burning of vegetative materials. Prescribed burning is done for a variety of reasons, including wildlife and vegetation management; fire suppression; disposal of logging, agricultural, and other wastes; site preparation; land clearing; timber stand management; and range (forage) management. Certain of these activities, such as the burning of debris to construct a highway (land clearing), might be considered to be temporary in that the emissions would only degrade air quality in any affected area for a short time (the duration of the construction project). However, certain other activities, which may represent common and routine practices, might not be considered to be temporary since they contribute to measured air quality levels on a regular basis. Such periodic burning might be considered an intermittent, but not necessarily temporary, activity.

Section 163(c)(3) of the Act calls for an EPA determination that any State rule or order providing for the exclusion of certain pollutant concentrations from PSD increment consumption complies with the statutory exclusion provisions. The EPA will give serious consideration to a State exclusion provision for specific temporary PM_{10} emission-related activities from PM_{10} increment consumption, provided that any such provision would not result in permanent or long-term deterioration of air quality in any affected area. For example, some logging, agricultural, and silvicultural activities could better be described as "itinerant" activities in that they may be temporary at a specific location, but move to nearby locations and still affect the air quality within the same air shed.

The EPA is also soliciting comments regarding (1) whether exclusions should be contingent upon the use of specific mitigation measures as "best management practices"; (2) what, if any, accountability measures should be required regarding the temporary nature of air quality deterioration resulting from excluded activities; and (3) whether excluded activities should be "coordinated" or "scheduled" when occurring in a common air shed to minimize the ambient impact from all excluded activities on a given day.

As stated above, the Act allows only those States with approved PSD plans to establish certain exclusions from increment consumption. While the types of exclusions that States may establish are described under paragraph (f) of § 51.166, EPA's current part 52 PSD Regulations also contain similar exclusion provisions [see § 52.21(f)]. The EPA originally allowed States to request the use of the exclusion provisions under EPA's part 52 PSD program while States were developing their own initial PSD regulations. But the EPA indicated that, after May 7, 1981, the exclusions would be unavailable unless a State submitted an approvable PSD plan to EPA (see 45 FR 52676, August 7, 1980; p. 52719). Paragraph (f) of § 52.21 is superfluous, since States may no longer request the exclusion of certain particulate matter concentrations from the PM_{10} increments under EPA's part 52 PSD regulations. Consequently, EPA plans to eliminate paragraph (f) altogether to avoid any confusion as to its future use by States without EPA-approved PSD plans. Accordingly, EPA is proposing to delete and reserve paragraph (f) of § 52.21.

EPA is also proposing to delete paragraph (f)(3) of § 51.166 which states: "No exclusion under paragraph (f) of this section shall occur later than 9 months after August 7, 1980, unless a SIP revision meeting the requirements of 40 CFR 51.166 has been submitted to the Administrator." The original purpose of this provision was to restrict the use of the exclusion provisions under EPA's Part 52 PSD regulations beyond May 7, 1981. Therefore, in order to avoid any confusion concerning the States' continuing authority to adopt new exclusion provisions pursuant to section 51.166, EPA is today proposing to delete paragraph (f)(3) of that section.

G. Area source impacts

After the baseline date, emissions from area sources must be considered in the increment consumption calculations. An analysis was conducted to determine the potential impact of emissions from area sources on the consumption (or expansion) of PM_{10} increments. A detailed report is provided in the docket for public inspection. Basically, this analysis focused on emissions from motor vehicles and residential wood combustion (RWC) in high growth urban areas. The potential impacts of other area sources on PM_{10} increments were determined to be less than their potential impact on the existing TSP increments, because their ratios of PM_{10} emissions to particulate matter emissions were sufficiently low.

If area sources make a significant contribution to ambient PM_{10} concentrations after the establishment of the baseline date, these sources would consume the PM_{10} increment and, consequently, constrain new or modified source growth in PSD areas. If, on the other hand, emission controls on area sources result in reductions in emissions of PM_{10}, these controls may effectively expand the increment and reduce the constraints posed by the PSD regulations on new and modified source growth.

H. Prevention of significant deterioration monitoring

In conjunction with EPA's proposed deletion of the TSP-based increments, EPA is also proposing to eliminate the requirement that PSD applicants submit preapplication monitoring data for TSP as part of their permit applications. This would be accomplished through the deletion of the significant ambient concentration defined for TSP [see revised paragraph (i)(8)(i)(c) of 40 CFR 51.166; also § 52.21(i)(8)(i)]. The existing significant ambient concentration of 10 $\mu g/m^3$ of TSP, 24-hour average, was originally established to help determine when a proposed PSD source must, prior to the submittal of its PSD application, collect and evaluate ambient TSP data in accordance with paragraph (m) of the PSD requirements under §§ 51.166 and 52.21.

When EPA amended the PSD requirements on July 1, 1987 to account for the revised PM_{10} NAAQS, it added a significant ambient concentration for PM_{10} (10 $\mu g/m^3$, 24-hour average). This significant ambient concentration is used to help determine when application monitoring data for PM_{10} must be gathered. The EPA indicated, however, that TSP monitoring would continue to be required under the PSD program (52 FR 24686). Once the TSP increments are deleted in accordance with the applicable implementation date for the PM_{10} increments, PSD programs will no longer require the regulation of TSP as an ambient indicator for particulate matter. Consequently, EPA will not

require PSD applicants to submit preapplication monitoring data for TSP when today's proposed amendments become effective under the Part 52 PSD regulations; only PM_{10} monitoring data will be required where applicable. When today's proposed amendments become effective under 40 CFR part 51, the requirement for preapplication monitoring data for TSP will no longer exist in the Federal SIP requirements for PSD.

V. Summary of Proposed Changes to the Regulations

In order to incorporate the PM_{10} increments and other changes discussed above into the PSD regulations, EPA is proposing amendments to several provisions of the CFR. Most of the changes are to existing provisions under both part 51 and part 52 of Chapter 40 of the CFR, pertaining to requirements for State and Federal administration of the PSD program, respectively. The EPA is also proposing to add a new Subpart C under part 81 of Chapter 40, as further described below.

One important proposed revision to the PSD regulations is the establishment of PM_{10} increments and the deletion of the existing TSP increments. In accordance with today's proposal, the PM_{10} increments would be added to the tables in §§ 51.166(c) and 52.21(c) which define increments for Class I, II, and III areas. Similarly, EPA proposes to amend the tables in 40 CFR 51.166(p) and § 52.21(p) by adding new increments for PM_{10}. The increments contained in these latter tables apply in situations where the FLM determines that a source will exceed the PM_{10} Class I increments (in a Class I area) without adversely affecting the area's air quality-related values. In all of these tables, the TSP increments would be deleted upon the effective date of the amendments to the increments for particulate matter. Other changes to the PSD regulations are necessary to account for the new PM_{10} increments and the deletion of the TSP increments. First, a sentence is proposed to be added to §§ 51.166(b)(3)(iv) and 52.21(b)(3)(iv) to make it clear that only reductions in PM_{10} can be used to offset new emissions of PM_{10} in determining the net emissions increase created by a new or modified facility subject to the PSD program.

Second, EPA proposes to modify the definitions of "baseline date" and "baseline area" to make it clear that baseline dates and baseline areas will be retained under the PM_{10} program, just as they existed under the existing particulate matter PSD regulations. That is, if an area has a baseline date under the existing particulate matter (TSP) increment, that same area and baseline date will be applicable to the PM_{10} regulations. If an area has no existing baseline date for particulate matter, the first complete PSD application with significant PM_{10} emissions filed with the appropriate reviewing authority after the implementation date of the new PM_{10} increments will trigger the baseline date. Also, because requirements for designating area attainment status pursuant to section 107 of the Act do not apply to PM_{10}, the definitions of "baseline date" and "baseline area" are proposed to be amended to refer to the PSD areas for PM_{10} that will be listed in subpart C of 40 CFR part 81.

Paragraph (f)(3) of § 51.166 is proposed to be deleted and reserved in order to avoid confusion as to a State's authority to develop and request EPA approval for new exclusion procedures for PSD increments. The elimination of paragraph (f)(3) will clarify EPA's position that any State with an EPA-approved PSD plan may request exclusions. Also, the entire paragraph (f) of section 52.21 is proposed to be deleted and reserved because States are no longer able to request the exclusion of certain concentrations in determining compliance with the PSD increments under § 52.21.

The PSD requirement for preapplication monitoring for TSP is proposed to be eliminated by deleting the significant ambient concentration for TSP from the list of pollutants contained in §§ 51.166(i)(8)(i) and 52.21(i)(8)(i). Thereafter, the PSD monitoring requirement for particulate matter will apply only to the PM_{10} indicator.

A new grandfathering provision is being proposed under §§ 51.166(i)(12) and 52.21(i)(13) to enable certain permit applications, if submitted before the effective date of the amended regulations, to be exempted from the new requirement for a PM_{10} increment analysis.

Finally, Subpart C to 40 CFR part 81 is proposed to be amended. A new paragraph will be added to explain how the section 107 TSP area designations will be deleted from each State listing so that PM_{10} baseline areas can be established when the PM_{10} increments become operative in each SIP.

VI. Administrative Requirements.

A. Public Hearing

If requested, a public hearing will be held to discuss the proposed regulations in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. If necessary, oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket for this regulatory action is A–88–19. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials). [see section 307(d)(7)(A)]. The docket is available for public inspection at EPA's Air Docket, which is listed under the **ADDRESSES** section of this notice.

C. Reference Documents

1. Radian Corporation. Technical Report—Equivalency of Alternative PM_{10} Increments. Prepared for U.S. Environmental Protection Agency. Office of Air Quality Planning and Standards. Research Triangle Park, NC. March, 1988.

2. Radian Corporation. Cost and Economic Impact Assessment for PM_{10} Increment Options. Prepared for U.S. Environmental Protection Agency. Office of Air Quality Planning and Standards. Research Triangle Park, NC. April, 1988.

3. Shumaker, J.L., Radian Corporation (1988). Evaluation of Source Impacts Associated with PM_{10} Increment Options. Memorandum to Daniel J. deRoeck. Feburary 15, 1988.

4. Pandullo, R.F. Radian Corporation (1988). Protection Against Adverse Class I TSP Impacts Afforded by PM_{10} Increments. Memorandum to Daniel J. deRoeck. September 28, 1988.

5. Frank, Neil H., U.S. EPA, Monitoring and Reports Branch. Difference Between Arithmetic Mean and Geometric Mean TSP. Memorandum to John Bachman and Henry Thomas. June 2, 1980.

6. Frank, Neil H., U.S. EPA, Data Analysis Section (1984) . Update on the Difference Between Arithmetic and Geometric Means for TSP. Memorandum to John Bachman. September 1, 1983.

7. Tikvart, Joseph A., U.S. EPA, Source Receptor Analysis Branch (1989). Comparison of Model Estimates for Deterministic vs. Statistical Standards. Memorandum to Edward J. Lillis. April 4, 1989.

8. Radian Corporation. PM_{10} Area Sources Paper. Prepared for U.S. Environmental Protection Agency. Office of Air Quality Planning and Standards. Research Triangle Park, NC. February 1988.

9. Revisions to the National Ambient Air Quality Standards for Particulate Matter (52 FR 24634).

10. Air Programs. Review of the National Secondary Ambient Air Quality Standards for Particulate Matter (52 FR 24670). July 1, 1987.

11. Regulations for Implementing Revised Particulate Matter Standards (52 FR 24672). July 1, 1987.

12. Proposed Regulations for Implementing Revised Particulate Matter Standards (50 FR 13130). April 2, 1985.

13. Proposed Revisions to the National Ambient Air Quality Standards for Particulate Matter (49 FR 10408).

14. Regulations for the Prevention of Significant Deterioration of Air Quality (45 FR 52676). August 7, 1980.

D. Office of Management and Budget (OMB) Review

Under Executive Order 12291 (E.O. 12291), EPA must judge whether a regulation is "major," and therefore subject to the requirement of a Regulatory Impact Analysis. The EPA performed an economic impact assessment using conservative costing assumptions to assess whether the proposed PM_{10} increments would constitute a major rule. The results of this assessment indicate that the proposed regulation is not major, because it would result in none of the adverse economic effects set forth in section 1 of E.O. 12291 as grounds for finding a regulation to be major. The annualized costs in the fifth year after the proposed regulations would go into effect would be $5 million, well under the $100 million threshold established as the first criterion for a major regulation in E.O. 12291. Estimated price increases of 0.3 to 1.5 percent associated with the proposed regulations would not be considered a "major increase in costs or prices" specified as the second criterion in E.O. 12291. The economic analysis of the proposed regulations' effect on the industry did not indicate any significant adverse effect on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion of E.O. 12291).

This regulation was submitted to OMB for review as required by E.O. 12291. Any written comments from OMB to EPA, and any EPA responses to those comments, will be included in Docket A-88-19.

No additional reporting and recordkeeping requirements will occur as a result of today's proposed regulatory revisions. The EPA previously addressed significant changes to the recordkeeping and reporting requirements, which resulted from new requirements for PM_{10} in the Federal PSD and NSR regulations, amended July 1, 1987 (52 FR 24672). Those changes were submitted to OMB for approval under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Today's proposed revisions focus primarily on the replacement of the existing TSP increments with equivalent PM_{10} increments for the prevention of significant deterioration. There will not be a time when both sets of increments will be federally required simultaneously.

E. Federalism Implications

Under Executive Order 12612 (E.O. 12612), EPA must determine if a rule has federalism implications. Federalism implications refer to substantial direct effects on the States, on the relationships between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. For those rules which have federalism implications, a federalism assessment is to be made.

E.O. 12612 also requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. E.O. 12612 provides for preemption of State law, however, if there is a clear congressional intent for EPA to do so. Any such preemption, however, is to be limited to the extent possible.

The development of section 166 regulations for PM_{10} is a statutory, nondiscretionary duty. However, States may adopt strategies other than increments for PM_{10} under section 166, if the strategies, taken as a whole, accomplish the statutory purposes. In addition, the regulations that EPA is proposing will allow States a full opportunity to develop their own approvable methods of implementing the proposed increments. Finally, the EPA will implement its own regulations only for those States that do not develop their own approvable regulations. Congressional intent for preemption of State law is clear in such cases.

State comments on the proposal will be fully considered prior to promulgation of final rules. For these reasons, a federalism assessment has not been prepared.

F. Economic Impact Assessment

Section 317 of the Act requires the Administrator to prepare an economic impact assessment for any regulations under part C of Title I (relating to PSD of air quality). An economic impact assessment was prepared for the proposed PM_{10} increment levels and also for other alternative levels. The requirements of this section were considered in the formulation of the proposed increments to ensure that they would represent the best system for the prevention of significant deterioration of air quality, considering costs. The economic impact assessment is included in the docket.

G. Regulatory Flexibility Act Compliance

Pursuant to the provisions of U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities (see 46 FR 8709).

List of Subjects

40 CFR Part 51

Air pollution control, Intergovernmental relations, Particulate matter, Total suspended particulate, PM_{10}.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 35.01 et seq) Federal Agencies must obtain OMB clearance for collection of information from ten (10) or more non-federal respondents. This rule does not contain any collection information requirements.

40 CFR Part 52

Air pollution control, Particulate matter, Total suspended particulate, PM_{10}.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: September 22, 1989.

William K. Reilly,

Administrator.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

For the reasons set forth in the preamble, it is proposed that part 51, Chaper I, Title 40 of the Code of Federal Regulations, be amended as follows:

1. The authority citation for part 51 continues to read as follows:

Authority: Secs. 101(b)(1), 110, 160–169, 171–178, and 301(a) of the Clean Air Act; 42

U.S.C. 7401(b)(1), 7410, 7470–7479, 7501–7508, and 7601(a).

2. In § 51.166, paragraphs (b)(3)(iv), (b)(14)(iii)(*a*), and (b)(15)(i), the first part of paragraph (b)(15)(ii) ending with the word "which," paragraph (i)(8)(i)(*c*), the tables in paragraph (c) and paragraph (p)(4) are revised; paragraph (f)(3) is removed and reserved; and paragraphs (b)(14)(vi), (b)(15)(iii), and (i)(12) are added to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(b) * * *

(3) * * *

(iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides, which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM_{10} emissions can be used to evaluate the net emissions increase for PM_{10}.

* * * * *

(14) * * *

(iii) * * *

(*a*) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable for sulfur dioxide or nitrogen dioxide under section 107(d)(1)(D) or (E) of the Act, or is listed for PM_{10} under 40 CFR part 81 Subpart C, on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and

* * * * *

(iv) Any baseline date established for an increment for particulate matter shall remain in effect and shall apply to any change in the applicable ambient indicator for particulate matter.

(15)(i) "Baseline area" means any intrastate area (and every part thereof) either designated as attainment or unclassifiable for sulfur dioxide or nitrogen dioxide under section 107(d)(1)(D) or (E) of the Act, or listed for PM_{10} under 40 CFR part 81 Subpart C, in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than $\mu g/m^3$ (annual average) of the pollutant(s) for which the baseline date is established.

(ii) The redesignation of an attainment or unclassifiable area for sulfur dioxide or nitrogen dioxide under section 107(d)(1)(D) or (E) of the Act, or of an area listed for PM_{10} under 40 CFR part 81 Subpart C, cannot cause such redesignated area to intersect or be smaller than the area of impact of any major stationary source or major modification which:

* * * * *

(iii) Any baseline area established for an increment for particulate matter shall remain in effect and shall apply to any change in the applicable ambient indicator for particulate matter, except that such area may be redesignated in accordance with paragraph (b)(15)(ii) of this section.

* * * * *

(c) * * *

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I:	
Particulate matter:	
PM_{10}, annual arithmetic mean	4
PM_{10}, 24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II:	
Particulate matter:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III:	
Particulate matter:	
PM_{10}, annual arithmetic mean	34
PM_{10}, 24-hr maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hr maximum	162
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

* * * * *

(f) * * *

(3) [Reserved]

* * * * *

(i) * * *

(8) * * *

(*i*) * * *

(*c*) Particulate matter—10 $\mu g/m^3$ of PM_{10}, 24-hour average.

* * * * *

(12) The plan may provide that the permitting requirements equivalent to those contained in paragraph (k)(2) of this section shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if

(i) the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Act before the provisions embodying the maximum allowable increases for PM_{10} took effect as part of the plan, and

(ii) the permitting authority subsequently determined that the application as submitted before that date was complete.

Instead, the applicable requirements equivalent to paragraph (k)(2) of this section shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

* * * * *

(p) * * *

(4) * * *

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Particulate matter:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

For the reasons set out in the preamble, it is proposed that Part 52, Chapter I, Title 40 of the Code of Federal Regulations, be amended as follows:

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

Authority: 42 U.S.C. 7401–7642.

2. In § 52.21, paragraphs (b)(3)(iv), (b)(14)(iii)(*a*), (b)(15)(i), the first part of paragraph (b)(15)(ii) ending with the word "which," the tables in paragraph (c) and paragraph (p)(5), and the third item in paragraph (i)(8)(i) are revised; paragraph (f) is removed and reserved; and paragraphs (b)(14)(iv), (b)(15)(iii), and (i)(13) are added to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(b) * * *

(3) * * *

(iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxide, which occurs

before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM_{10} emissions can be used to evaluate the net emissions increase for PM_{10}.

* * * * *

(14) * * *

(iii) * * *

(*a*) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable for sulfur dioxide or nitrogen dioxide under section 107(d)(1)(D) or (E) of the Act, or is listed for PM_{10} under 40 CFR part 81 subpart C, on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and

* * * * *

(iv) Any baseline date established for an increment for particulate matter shall remain in effect and shall apply to any change in the applicable ambient indicator for particulate matter.

(15)(i) "Baseline area" means any intrastate area (and every part thereof) either designated as attainment or unclassifiable for sulfur dioxide or nitrogen dioxide under section 107(d)(1)(D) or (E) of the Act, or listed for PM_{10} under 40 CFR part 81 subpart C, in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the baseline date is established.

(ii) The redesignation of an attainment or unclassifiable area for sulfur dioxide or nitrogen dioxide under section 107(d)(1)(D) or (E) of the Act, or of an area listed for PM_{10} under 40 CFR part 81 Subpart C, cannot cause such redesignated area to intersect or be smaller than the area of impact of any major stationary source or major modification which:

* * * * *

(iii) Any baseline area established for an increment for particulate matter shall remain in effect and shall apply to any change in the applicable ambient indicator for particulate matter, except that such area may be redesignated in accordance with paragraph (b)(15)(ii) of this section.

* * * * *

(c) * * *

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I:	
Particulate matter:	
PM_{10}, annual arithmetic mean	4
PM_{10}, 24-hr maximum	8
Sulfur doxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hr maximum	2
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II:	
Particulate matter:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hr maximum	30
Sulfur doxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III:	
Particulate matter:	
PM_{10}, annual arithmetic mean	34
PM_{10}, 24-hr maximum	60
Sulfur doxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

* * * * *

(f) [Reserved]

* * * * *

(i) * * *

(8) * * *

(i) * * *

Particulate matter—10 $\mu g/m^3$ of PM_{10}, 24-hour average;

* * * * *

(13) The requirements in paragraph (k)(2) of this section shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if

(i) the owner or operator of the source or modification submitted an application for a permit under this section before the provisions embodying the maximum allowable increases for PM_{10} took effect in an implementation plan to which this section applies, and

(ii) the Administrator subsequently determined that the application as submitted before that date was otherwise complete.

Instead, the requirements in paragraph (k)(2) of this section shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

* * * * *

(p) * * *

(5) * * *

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Particulate matter:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

For the reasons set out in the preamble, subpart C of part 81, chapter I, title 40 of the Code of Federal Regulations, is proposed to be amended as follows:

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

Authority: Secs. 107, 301, Clean Air Act, as amended (42 U.S.C. 7407, 7601).

2. The heading of subpart C is revised to read as follows:

Subpart C—Section 107 Attainment Status Designations and PM_{10} Area Listings for Prevention of Significant Deterioration

3. In § 81.300, the undesignated paragraph is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 81.300 Scope.

* * * * *

(b) Designated areas which are listed below as attainment ("Better than national standards") or unclassifiable ("Cannot be classified") for total suspended particulate (TSP), sulfur dioxide (SO_2), and nitrogen dioxide (NO_2), represent potential baseline areas or portions of baseline areas which are used in determining compliance with maximum allowable increases (increments) in concentrations of these respective pollutants for the prevention of significant deterioration of air quality (PSD). Areas listed in this subpart for PM_{10} are not subject to the attainment status designation requirements under section 107 of the Act. These areas are listed as PSD areas to identify potential baseline areas, or portions thereof, in determining compliance with the PM_{10} increments.

[FR Doc. 89-23339 Filed 10-4-89; 8:45 am]

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federal register

Thursday
October 5, 1989

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 61

Student, Recreational, and Private Pilot Rules and Annual Flight Review Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. 24695; Amdt. No. 61-86]

RIN 2120-AA54

Student, Recreational, and Private Pilot Rules and Annual Flight Review Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; amendment.

SUMMARY: This amendment clarifies the meaning of the phrase "flight time" in the requirements for an annual flight review; clarifies the new annual flight review requirements for certain pilots who have recently met the biennial flight review requirements; clarifies new pre-solo requirements for student pilots with a recent solo endorsement; and modifies the pre-solo flight instruction and the annual flight review requirements for certain glider-rated private pilots.

These minor revisions are necessary to provide for transition to the new student, recreational, and private pilot rules and the annual flight review requirements. The revisions are intended to respond to comments raised but not resolved fully when the rules were being adopted.

EFFECTIVE DATE: October 5, 1989.

FOR FURTHER INFORMATION CONTACT: Edna H. French, Manager, or John Lynch, Regulations Branch (AFS-850), General Aviation and Commercial Division, 800 Independence Ave. SW., Washington, DC 20591; Telephone: (202) 267-8150.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling the Office Of Public Affairs at (202) 267-3484. Communications must identify the docket number (Docket No. 24695) of this final rule. Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The rules establishing the requirements for an annual flight review were issued in the "Certification of Recreational Pilots and Annual Flight Review Requirements for Recreational Pilots and Non-Instrument-Rated Private Pilots With Fewer Than 400 Flight Hours" Final Rule (54 FR 13028; March 29, 1989). That final rule resulted, in part, from a petition for rulemaking submitted by the National Association of Flight Instructors (NAFI) (47 FR 11026; March 15, 1982). The final rule was based upon Notice of Proposed Rulemaking No. 85-13 (50 FR 26286; June 25, 1985).

In addition, a new requirement for student pilots was adopted in the final rule. That rule, § 61.87(b), modified the pre-solo requirements for all student pilots and required them to pass a written examination before being permitted to fly solo. NAFI recommended a pre-solo written examination as a tool to help ensure that student pilots have basic knowledge of the flight rules and operating parameters of their aircraft. The FAA developed and published an advisory circular that provides guidance to flight instructors for developing and administering the pre-solo written examination.

After publication of the final rule, a few questions were raised about the intent of the phrase "400 hours flight time" in § 61.56(d) and whether non-pilot flight time would suffice.

By letter dated May 22, 1989, the Aircraft Owners and Pilots Association (AOPA) petitioned the FAA to revise § 61.56 by deleting the annual flight review requirements for non-instrument-rated private pilots with less than 400 hours of flight time as a pilot. AOPA urges reconsideration of the annual flight review requirement for these pilots and provided additional data which the FAA is reviewing. AOPA also recommends the following sentence be added to the new § 61.87(a):

> All student pilots with medical certificates dated prior to August 31, 1989 must meet the new standards as outlined in § 61.87 by December 1, 1989.

By letter dated July 25, 1989, the Experimental Aircraft Association (EAA) also petitioned the FAA to delete the annual flight review requirement as it pertains to private pilots. This amendment responds, in part, to those petitions.

In addition, this amendment responds to a comment dated October 23, 1985, from the Soaring Society of America, Inc. (SSA) that the FAA did not address fully in the previous rulemaking action. SSA suggests revising § 61.56 to provide a more reasonable and equitable means for glider-qualified private pilots to comply with the 1-hour of flight instruction required by the annual flight review provisions of the final rule. SSA states, in effect, that compliance with this requirement for glider pilots is difficult because flight in gliders, as opposed to the other categories and classes of aircraft, is more dependent on winds aloft and the other weather phenomena. SSA states that it may take 3 or more flights to equal 1-hour of flight.

Although the FAA intended to do so, one commenter notes that the FAA has not specified in § 61.87(k) who is authorized to conduct pre-solo flight instruction for student pilots in gliders. This amendment responds to these comments regarding glider pilots.

General Discussion of the Final Rule

Since the publication of the final rule, the FAA has received several inquiries about the intent of the phrase "400 hours flight time" in § 61.56(d). These questions concern whether non-pilot time would suffice for the required 400 hours of flight time or only that time acquired as a pilot. As written, the phrase "400 hours flight time" could be misinterpreted, leading one to believe that any flight time would suffice. "Flight time" is defined in part 1 of the Federal Aviation Regulations as "the time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the next point of landing ('Block-to-block' time)." The definition does not address whether the time is acquired as a pilot or a non-pilot. The FAA intended the phrase "400 hours flight time" to mean that time acquired as a pilot and, therefore, this amendment rewords that phrase to read "400 hours of flight time as a pilot."

As a result of the petitions from AOPA and EAA, the FAA initiated an additional review of the findings that led to the establishment of § 61.56(d), the annual flight review requirements for non-instrument-rated private pilots with less than 400 hours of flight time as a pilot. When that review is completed, the FAA will determine whether the requirement should be deleted as requested.

However, the FAA agrees with AOPA and EAA that non-instrument-rated private pilots with less than 400 hours of flight time as a pilot, who satisfactorily complete a flight review on or before August 30, 1989, should be allowed to rely on the status of § 61.57 at the time of the flight review. These pilots expected that they would not be required to take another flight review for 24-calendar months. In adopting the new rule, the FAA intended to follow its customary practice of allowing persons

who have gained a privilege under one regulation to continue exercising that privilege for its expected duration after that regulation is amended or superseded. Therefore, this amendment allows pilots who have satisfactorily completed a flight review on or before August 30, 1989, to exercise their pilot-in-command privileges for the expected 24-calendar month period after that flight review.

Similarly, this amendment clarifies that student pilots who earned a solo endorsement prior to the effective date of the final rule are allowed to exercise their solo privileges for the expected 90-day duration of the solo endorsement. This amendment responds favorably to a part of AOPA's petition and, although different than what was requested, in effect, grants the same relief.

The FAA also agrees with SSA's requested revision that § 61.56 should provide a more reasonable and equitable means for glider-rated private pilots to comply with the 1-hour of flight instruction time required by the annual flight review provisions of the final rule. The FAA believes that the flight instruction requirement of the annual flight review for glider-rated private pilots, with less than 400 hours of flight time as a pilot, should provide the option of substituting a number of instructional flights for 1 hour of flight instruction. Therefore, this amendment permits a glider-rated private pilot who has logged fewer than 400 hours of flight time as a pilot the option of performing a minimum of 3 instructional flights, each of which has a 360-degree turn, and 1 hour of ground instruction in lieu of 1 hour of flight instruction and 1 hour of ground instruction.

The FAA agrees with the commenter who suggests that § 61.87(k) be clarified to specify who is authorized to conduct pre-solo flight instruction for student pilots in gliders. This oversight was unintentional and § 61.87(k) is amended to state that flight instructors with a glider rating are authorized to conduct pre-solo flight instruction in gliders for student pilots.

Reason for No Notice and Immediate Adoption

This amendment to the final rule is need to respond to issues that were raised during the notice and comment period in the previous rulemaking action but were not fully resolved. This amendment also clarifies the consequences of compliance with regulatory provisions that were amended or superseded by the final rule. The FAA intended that satisfactory compliance with the applicable regulation prior to the effective date of the final rule, would continue to be valid until its expected termination. This amendment also includes an editorial change to resolve ambiguity regarding the definition of flight time under the annual flight review requirements of the final rule.

This amendment is necessary to resolve ambiguity regarding the final rule, to avoid unintended consequences that could significantly burden the pilot community, and to make certain editorial changes. For these reasons, the FAA has determined that notice and public comment procedures are impracticable, unnecessary, and contrary to the public interest, and publication for prior comment would not reasonably be expected to result in the receipt of useful information on the amendment. Moreover, because this amendment is needed to ensure effective implementation of the final rule, the FAA has determined that good cause exists to make this amendment effective in less than 30 days.

Economic Assessment

This amendment is necessary to address comments submitted during the previous rulemaking action that were not resolved fully, to correct oversights that occurred during the promulgation of the final rule published on March 29, 1989, and to resolve ambiguities as to its implementation. The final rule makes only one minor substantive change to the annual flight review requirement as it applies to glider-rated private pilots who have less than 400 hours of flight time as a pilot. The amendment allows these pilots to meet the flight instruction requirement of the annual flight review by performing 3 instructional flights, each of which has a 360-degree turn, or 1 hour of flight instruction. The amendment will have minimal economic impact. This impact consists of the cost savings to those glider-rated pilots who perform 3 instructional flights during the annual flight review that do not total 1 hour. The FAA cannot readily identify these cost savings because the number of glider-rated private pilots that may exercise the option provided in this amendment is speculative. The FAA also cannot reasonably determine the number of additional flights that might be necessary, on average, to accumulate 1 hour of total flight time. Thus, while comprehensive and time-consuming analysis might result in an approximate figure showing the *de minimis* impact of this option, such as analysis is not warranted. The FAA believes that a glider-rated pilot's succcessful completion of the 3 instructional flights is adequate to demonstrate the required proficiency and is equivalent to 1 hour of flight instruction involving fewer than 3 flights. There is no economic impact associated with the other minor editorial changes and clarifications contained in this amendment. For these reasons, the FAA has determined that any expected economic impact is so minimal that preparation of a full regulatory evaluation is not warranted.

Trade Impact Assessment

The amendment primarily affects individual student, recreational, and private pilots operating domestically, not the activities of businesses involved in the sale of aviation products or services. Even if a pilot is the sole proprietor of a small business and exercises the privileges of a pilot certificate in operations incidental to that business, the cost impact, if any, to that business resulting from the amendment would be negligible. Therefore, the FAA has determined that the amendment will not have an impact on trade opportunities for U.S. firms doing business in foreign countries or foreign firms doing business in the United States.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not affected disproportionately by government regulations. The amendment contained in this notice primarily affects individual student, recreational, and private pilots operating domestically, not the activities of small businesses. In some cases, a pilot is the sole proprietor of a small business and exercises the privileges of a pilot certificate in operations incidental to that business. However, any individual cost of compliance to that business would be negligible and would fall well below the annual threshold cost level used to determine if a regulation has a significant economic impact on a small entity (FAA Order 2100.14 entitled "Regulatory Flexibility Criteria and Guidance"). The FAA expects that the number of small entities that might be affected by the amendment would not be substantial; however, even if a substantial number of small entities are affected by the amendment, any economic impact that might result would not be significant. Thus, in accordance with the Regulatory Flexibility Act, the FAA has determined that the amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. Consequently, preparation of a regulatory flexibility analysis is not warranted.

Paperwork Reduction Act Approval

The reporting requirements associated with the final rule published on March 29, 1989, were approved previously by the Office of Management and Budget (OMB) in accordance with the criteria of the Paperwork Reduction Act of 1980. OMB assigned Control Number 2120-0021 to its prior approval. This amendment does not change the reporting or recordkeeping requirements of the final rule, and therefore, the FAA is not required to submit the amendment to OMB for review and approval.

Conclusion

This amendment clarifies the manner of transition from regulations that were amended or superseded by the final rule, "Certification of Recreational Pilots and Annual Flight Review Requirements for Recreational Pilots and Non-Instrument-Rated Pilots with Fewer than 400 Hours." This amendment also includes minor revisions to address issues related to gliders that were raised, but not fully resolved, in the prior rulemaking action and to ensure accurate interpretation of the annual flight review requirements. The amendment primarily affects individual student, recreational, and private pilots, not the activities of small businesses. Therefore, in accordance with the Regulatory Flexibility Act, it is certified that the amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities.

To the extent that this final rule will have any economic effect, the only impact is the minimal savings to glider-rated pilots who have less than 400 hours of flight time as a pilot and who perform 3 instructional flights, in lieu of 1 hour of flight instruction, as part of the annual flight review. There is no economic impact associated with the editorial corrections and clarifications contained in this final rule. For these reasons, the FAA has determined that the amendment is not major under the criteria of Executive Order No. 12291 and is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). Because the expected economic impact of the amendment is so minimal, the FAA has determined that preparation of a full regulatory evaluation is not warranted.

List of Subjects in 14 CFR 61

Aviation Safety, Student pilots, Eligibility requirements, Aeronautical knowledge, Operational experience, Cross-country flight privileges, Limitations.

The Amendment

Accordingly, part 61 of the Federal Aviation Regulations (14 CFR part 61) is amended as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C 106(g) (Rev., Pub. L. 97-449; Jan. 12, 1983).

2. Section 61.56 is amended by revising paragraph (d) to read as follows:

§ 61.56 Flight review.

* * * * *

(d) Except as provided in paragraph (e) of this section—

(1) Each recreational pilot who has logged fewer than 400 hours of flight time as a pilot and each non-instrument-rated private pilot, other than a glider-rated private pilot, who has logged fewer than 400 hours of flight time as a pilot must have complied with the flight review requirements of this section since the beginning of the 12th calendar month before the month in which that pilot acts as pilot-in-command of an aircraft. The flight review required by this paragraph consists of a minimum of 1 hour of flight instruction and 1 hour of ground instruction.

(2) Each glider-rated private pilot who has logged fewer than 400 hours of flight time as a pilot must have complied with the flight review requirements of this section since the beginning of the 12th calendar month before the month in which the pilot acts as pilot-in-command of a glider. The flight review required by this paragraph consists of a minimum of—

(i) Three instruction flights in a glider, each of which includes a 360-degree turn, and 1 hour of ground instruction; or

(ii) One hour of flight instruction in a glider and 1 hour of ground instruction.

(3) Notwithstanding the requirements of subparagraphs (d)(1) and (d)(2) of this section, each non-instrument-rated private pilot, who has logged less than 400 hours of flight time as a pilot and who satisfactorily completes a flight review on or before August 30, 1989, may act as pilot-in-command of an aircraft until the 24th calendar month after the month in which that flight review was satisfactorily completed.

3. Section 61.87 is revised by removing the word "and" at the end of paragraph (k)(2); by replacing the period (.) at the end of paragraph (k)(3) with a semi-colon (;) and adding the word "and" after the semi-colon; by adding a new paragraph (k)(4); and by adding a new paragraph (n) to read as follows:

§ 61.87 Solo flight requirements for student pilots.

* * * * *

(k)* * *

(4) In gliders for gliders.

* * * * *

(n) Notwithstanding the requirements of paragraphs (a) through (m) of this section, each student pilot, whose student pilot certificate and logbook are endorsed for solo flight by an authorized flight instructor on or before August 30, 1989, may operate an aircraft in solo flight until the 90th day after the date on which the logbook was endorsed for solo flight.

Issued in Washington, DC on September 29, 1989.

James S. Busey,

Administrator.

[FR Doc. 89-23591 Filed 10-3-89; 1:09 pm]

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H.R. 3282/Pub. L. 101-103

Performance Management and Recognition System Reauthorization Act of 1989. (Sept. 30, 1989; 103 Stat. 670; 3 pages) Price: $1.00

S.J. Res. 146/Pub. L. 101-104

Designating the week of September 24, 1989, as "Religious Freedom Week". (Oct. 2, 1989; 103 Stat. 673; 2 pages) Price: $1.00