9-20-89
Vol. 54 No. 181

federal register

Wednesday
September 20, 1989

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

9-20-89
Vol. 54 No. 181
Pages 38643-38812

federal register

Wednesday
September 20, 1989

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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DEPARTMENT OF AGRICULTURE

7 CFR Part 2

Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the U.S. Department of Agriculture (USDA) to delegate to general officers and agency heads the authority to direct that the flag of the United States be flown at half-staff on buildings or grounds under their jurisdiction or control.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler, Deputy Assistant General Counsel, USDA, Washington, DC (202) 447–6035.

SUPPLEMENTARY INFORMATION: Pursuant to Proclamation No. 3044, of March 1, 1954, as amended by Proclamation No. 3948, December 12, 1969, the President of the United States provided that the flag of the United States shall be flown at half-staff on all buildings and grounds of the Federal government upon the death of specifically designated officials. In addition, the President delegated to heads of executive departments the authority to direct that the flag of the United States may be flown at half-staff on buildings and grounds under their jurisdiction on occasions other than those specified in the Proclamation. The purpose of this document is to delegate the authority of the Secretary to general officers and heads of USDA agencies to be exercised in accordance with regulations promulgated by the Director, Office of Operations.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, part 2, subtitle A, title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart B—General Delegations of Authority by the Secretary of Agriculture.

2. A new § 2.7a is added to read as follows:

§ 2.7a Delegations of authority to Agency Heads to order that the United States flag be flown at half-staff.

Pursuant to section 5 of Presidential Proclamation No. 3044, as amended, each general officer and agency head is delegated authority to order that the United States flag shall be flown at half-staff on buildings and grounds under his or her jurisdiction or control. This authority shall be exercised in accordance with regulations promulgated by the Director, Officer of Operations.

Dated: September 8, 1989.

Jack C. Parnell,

Acting Secretary of Agriculture.

[FR Doc. 89–22217 Filed 9–19–89; 8:45 am]
BILLING CODE 3410–14–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 89–169]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Santa Clara County in California to the list of quarantined areas. We are also amending the conditions for issuance of a certificate to allow the determination that the premises are free from the Mediterranean fruit fly to be based on treatment of the premises. These actions are necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: September 14, 1989. Consideration will be given only to comments received on or before November 20, 1989.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89–169. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean frut fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy

investations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

A document published in the **Federal Register** on August 29, 1989 (54 FR 35629–35635, Docket Number 89–146), established the Mediterranean fruit fly regulations (7 CFR 301.78 *et seq.*; referred to below as the regulations). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Mediterranean fruit fly to noninfested areas.

The regulations, among other things, designated a portion of Los Angeles County in California as a quarantined area. This area remains infested with Mediterranean fruit fly.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, a unit within the U.S. Department of Agriculture, reveal that an additional infestation of Medfly has been discovered in Santa Clara County, near Mountain View, California.

Specifically, inspectors collected more than 20 adult Mediterranean fruit flies in Santa Clara County, near Mountain View, California, during the period of August 31, 1989, to September 8, 1989. During this period, inspectors also found one Mediterranean fruit fly larva infesting fruit in the same area.

The regulations in § 301.78–3 provide that the Administrator of the Animal and Plant Health Inspection Service shall list as a quarantined area each State, or each portion of a State, in which the Mediterranean fruit fly has been found by an inspector, in which the Administrator has reason to believe the Mediterranean fruit fly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Mediterranean fruit fly has been found.

In accordance with these criteria, we are designating as a quarantined area the following area in Santa Clara County, California:

Santa Clara County

That portion of the county in the Mountain View area bounded by a line drawn as follows: Beginning at the intersection of State Highway 237 and Lawrence Expressway; then southerly along this expressway to its intersection with Interstate Highway 280; then northwesterly along this highway to its intersection with Page Mill Road; then northeasterly along this road to its intersection with Oregon Expressway; then northeasterly along this expressway to its intersection with U.S. Highway 101; then northwesterly along this highway to its intersection with San Francisquito Creek; then northeasterly along this creek to its intersection with the San Francisco Bay shoreline; then southeasterly along this shoreline to its intersection with Guadalupe Slough; then southerly along this slough to its end; then southerly along an imaginary line drawn from the end of Guadalupe Slough to the point of beginning.

There does not appear to be any reason to designate other additional quarantined areas in California other than the area specified above. California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles under this subpart.

Premises Treatment

Prior to the effective date of this document, § 301.78–5 of the regulations provided, as one means of qualifying for a certificate to move regulated articles interstate, a determination by an inspector that the premises are free from the Mediterranean fruit fly, based on inspection of the premises of origin.

We are amending the conditions for issuance of a certificate to allow the determination that the premises are free from the Mediterranean fruit fly to be based on a specified treatment of the premises. We are amending the treatment schedules in § 301.78–10 of the regulations by adding the following treatment for premises on which regulated articles are grown:

Premises: A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regulator treatments with malathion bait spray at 6 to 10-day intervals, starting at least 30 days before harvest and continuing through the harvest period. The malathion bait spray treatment must be applied at a rate of 2.4 ounces of technical grade malathion and 9.6 ounces of protein hydrolysate per acre.

A definition of core area is added to § 301.78–1 to read as follows:

Core area. The 1 square mile area measuring 1 mile on each side at the center of which is the point where the Mediterranean fruit fly has been detected.

Research and experience indicate that the treatment would not be adequate to eliminate pest risk within the core area, but would destroy the Mediterranean fruit fly on premises lying within the quarantined area, but outside the core area.

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Because the Mediterranean fruit fly could be spread to noninfested areas of the United States, it is necessary to act immediately to prevent it spread.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, their is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register.** After the comment period closes, we will publish another document in the **Federal Register,** including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

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

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from a portion of Santa Clara County, near Mountain View, California. Approximately 140 entities will be affected by this rule. All would be considered small entities. They include 12 fruit/produce vendors, 93 nurseries, 5 commercial growers of cucumbers, tomatoes, green peppers, and persimmons, 9 community gardens, 2 farmers markets, 14 growers of apricots, cherries, and avocados, 2 flea markets and 1 commercial fruit dryer. These entities comprise less than 1 percent of the total of similar enterprises operating

in the State of California. Most of the sales for these entities are local intrastate and would not be affected by this regulation. Further, the conditions in the Mediterranean fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allow interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly, Incorporation by reference.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 is revised to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.78–1, a definition of "core area" is added, in alphabetical order, to read as follows:

§ 301.78–1 Definitions.

* * * * *

Core area. The 1 square mile area measuring 1 mile on each side at the center of which is the point where the Mediterranean fruit fly has been detected.

* * * * *

3. In § 301.78–3(c), the designation of the quarantined areas is amended by adding a new paragraph following the description of Los Angeles County, California, as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

* * * * *

Santa Clara County

That portion of the county in the Mountain View area bounded by a line drawn as follows: Beginning at the intersection of State Highway 237 and Lawrence Expressway; then southerly along this expressway to its intersection with Interstate Highway 280; then northwesterly along this highway to its intersection with Page Mill Road; northeasterly along this road to its intersection with Oregon Expressway; then northeasterly along this expressway to its intersection with U.S. Highway 101; then northwesterly along this highway to its intersection with San Francisquito Creek; then northeasterly along this creek to its intersection with this San Francisco Bay shoreline; then southeasterly along this shoreline to its intersection with Guadalupe Slough; then southerly along this slough to its end; then southerly along an imaginary line drawn from the end of Guadalupe Slough to the point of beginning.

§ 301.78–5 [Amended]

4. Paragraph (a)(1)(ii) of § 301.78–5 is amended by adding "or treatment of the premises of origin in accordance with § 301.78–10(d) of this subpart" immediately after the word "origin,".

5. In § 301.78–10, a new paragraph (d) is added to read as follows:

§ 301.78–10 Treatments.

* * * * *

(d) *Premises:* A field, grove, or area that is located within the quarantined area but outside the infested core area on which regulated articles are produced must receive regular treatments with malathion bait spray at 6 to 10-day intervals, starting at least 30 days before harvest and continuing through the harvest period. The malathion bait spray treatment must be applied at a rate of 2.4 ounces of technical grade malathion and 9.6 ounces of protein hydrolysate per acre.

Done in Washington, DC, this 14th day of September 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–22185 Filed 9–19–89, 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of a new animal drug application (NADA) from Seeco, Inc., to NutriBasics Co.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: NutriBasics Co., North Highway 71, P.O. Box 1014, Willmar, MN 56201, informed FDA that the firm is now sponsor of NADA 100–352, formerly held by Seeco, Inc., North Highway 71, P.O. Box 1014, Willmar, MN 56201. The NADA, originally approved July 30, 1975 (40 FR 31934) for use of 1- or 10-gram-per-pound tylosin premix (i.e., Type A article) to make swine feeds (i.e., Type C feeds), was amended August 19, 1983 (48 FR 37622) to approve use of 40-gram-per-pound Type A article to make swine feeds, and November 26, 1985 (50 FR 48580), to approve use of 5-, 10-, 20-, and 40-gram-per-pound Type A articles to make swine, beef cattle, and chicken feeds.

The agency is amending the regulations in 21 CFR 510.600(c) (1) and (2) and 558.625(b)(38) to reflect the change.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food,

Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry, and in paragraph (c)(2) by numerically adding a new entry to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
NutriBasics Co., North Highway 71, P.O. Box 1014, Willmar, MN 56201	053740
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
053740	NutriBasics Co., North Highway 71, P.O. Box 1014, Willmar, MN 56201
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended in paragraph (b)(38) by removing "011749" and replacing it with "053740."

Dated: September 8, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 89–22158 Filed 9–19–89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 203, 213, and 234

[Docket No. R–89–1372; FR–2333]

RIN 2502–AD98

Deregulation of Mortgagor Income Requirements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Currently HUD, by regulation, establishes the amount of mortgagor income considered "adequate" to meet the periodic payments required in the mortgage loan. This rule changes the method of calculating the percentage of a mortgagor's income which will be used to determine whether a mortgagor qualifies for a HUD-insured mortgage. A provision contained in the earlier proposed rule relaxing other regulatory limitations with respect to loan origination fees, is not contained in this final rule.

EFFECTIVE DATE: October 20, 1989.

FOR FURTHER INFORMATION CONTACT: Stephen A. Martin, Director, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755–3046. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD published a proposed rule entitled "Deregulation of Loan Origination Fee and Mortgagor Income Requirements" on April 29, 1988 (53 FR 15408). This rule makes final that proposal with revisions and changes as indicated below.

Origination Fee

Under its current regulations, HUD places specific limits on the amount a mortgagee may collect from a mortgagor to compensate the mortgagee for expenses incurred in originating and closing a loan (see 24 CFR 203.27 and 234.48). Generally, the charge may not exceed one percent of the original principal amount of the mortgage. (For new construction involving construction advances, that charge may be increased to a maximum of two and a half percent of the original principal amount of the mortgage to compensate the mortgagee for necessary inspections and administrative costs connected with making construction advances. For mortgages on properties requiring repair or rehabilitation, mortgagor charges may be assessed at a maximum of two and one half percent of the portion of the mortgage attributable to the repair or rehabilitation, plus 1 percent on the balance of the mortgage.)

The proposed rule would have removed, as a general matter, these specific limitations on the amounts mortgagees may charge for originating and closing a loan. The Commissioner would have, however, continued to set limits on the amount of such fees that could be included in the insured mortgage.

The Department has not included the provisions to deregulate loan origination fees in this final rule. For fixed rate mortgages, data available to the Department suggests that, while the loan origination fee cap may be set below the cost of providing loan origination services, the shortfall is easily recovered by charging higher interest rates. As a consequence, the loan origination fee cap does not appear to cause significant inefficiencies in the fixed rate loan market. The Department, however, will undertake a study of the efficiency consequences of continuing to cap loan origination fees for adjustable rate mortgages. The Department intends to complete this study by June 1990, and, if the loan origination fee cap for adjustable rate mortgages is found to cause economic inefficiency, will finalize the removal of the fee cap for these mortgages.

Public comments both against and in favor of eliminating the loan origination fee cap were received on the proposed rule. Favorable comments suggested the loan origination fee cap was unnecessary in the highly competitive mortgage loan market and should be removed. While the Department cannot disagree with this comment, it also notes that apparently the loan origination fee cap on fixed rate mortgages does not keep mortgagees from recovering loan origination costs and does not appear to cause significant inefficiencies in loan origination, as indicated above. The commenters opposed to the deregulation of the fee cap generally stated the concern that deregulation would lead to higher loan origination costs for mortgagors. The Department's data for fixed rate mortgages, however, suggests otherwise. Since a shortfall in mortgage origination costs can easily be recovered through adjustments to the mortgage loan interest rate, mortgagors are currently bearing loan origination costs (directly through loan origination fees and indirectly through mortgage

interest rates) at the competitive level set in the marketplace. Therefore, the elimination of the loan origination fee cap would be expected to cause no change in the total origination cost for mortgagors.

The proposed origination fee provision is not included in this final rule.

Mortgagor Income

In addition to limiting origination fees, current regulations also provide specific guidelines for determining the adequacy of a mortgagor's income to meet the periodic payments required by the mortgage. The mortgagor's income is considered adequate if the total prospective housing expense does not exceed 35 percent of the mortgagor's "net effective income" and if the total prospective housing expense and other recurring charges do not exceed 50 percent of the mortgagor's net effective income (see 24 CFR 203.33, 213.518 and 234.48). Exceptions to the above guidelines are permitted where certain favorable compensating factors, specified by the FHA Commissioner, are present. (In fact, these 35/50 ratios were increased by administrative directive in April, 1982 to 38/53.)

As originally proposed, the final rule removes these specific guidelines from the regulatory text and provides a more flexible and realistic standard. The new standard (in conformity with general industry practice), would substitute the concept of gross income rather than the artificial concept "net effective income" currently used. This change should not, as a practical matter, have a significant impact on prospective mortgagors.

In reviewing the process of changing to gross income HUD also considered whether it should continue to include anticipated monthly maintenance and repairs and heat and utility costs as part of the housing expense in the analysis. We initially concluded in the proposed rule that monthly estimates for maintenance and repairs often did not reflect the actual amounts expended for these items. And, although heat and utility estimates could be more accurately projected, we opted to use a monthly housing expense which included only the principal, interest, taxes and insurance (PITI) and related costs such as MIP and homeowner or condominium fees where applicable. This is the approach used by conventional lenders.

In response to extensive criticism in the public comments with respect to HUD's proposal to delete heat and utility costs as a criterion determining income eligibility, HUD has revised its policy with respect to this item and will permit the mortgagor qualifying ratios to be increased up to 2 percent for homes considered to be energy efficient. The local HUD Field Offices will determine the energy efficiency standards that must be met to be eligible for an increase in the ratios.

In place of the rather intricate definitions and concepts which apply under the existing regulations (see HUD Handbook 4155.1 Rev.), the following concepts, now prevalent in the conventional mortgage market, will be used in administrative instructions to implement this new regulatory approach. Unless otherwise indicated, the concepts are the same as those originally set forth in the proposed rule.

Effective Income will mean allowable gross income from all sources. A Federal tax liability calculation will no longer be required.

Total Housing Expense will mean the sum total of principal, interest, real estate taxes, and hazard insurance (PITI). (Note: Monthly MIP and homeowner association/condo fees must be added, when applicable.) Maintenance and repairs will no longer be used in this calculation. Heat and utilities will be treated in a manner different from the proposed rule, as indicated above.

Recurring Charges will continue to mean any debt that does not mature in six months or is classed as continuous, *e.g.*, automobile loans, child support, child care, etc. It will no longer include such things as state and local taxes, retirement or social security.

Fixed Payment will mean the sum total of the housing expense plus the recurring charges.

Residual Income will mean effective income minus fixed payment.

Housing Ratio will mean housing expense divided by effective income. The recommended guideline HUD anticipates using is 29 percent.

Fixed Payment Ratio will mean fixed payment divided by effective income. The recommended guideline HUD anticipates using is 41 percent. This represents an increase from 38 percent in the proposed rule. This increase in the ratio is based upon additional analysis indicating that 38 percent was too low and that 41 percent would make HUD consistent with the Veterans Adminstration.

In essence, the significant change this rule would make in the existing regulation would be to shift from use of a "net effective income" concept to use of a "gross income" concept in determining adequacy of a mortgagor's income. The impact of such a shift on applicant mortgagors would be negligible but the gain in FHA processing efficiency and accuracy could be significant. HUD will retain authority to adjust the guideline income and fixed payment ratios by administrative instructions to meet the demands of the housing market (see Mortgagee Letter (82–10)).

The 29 and 41 percent ratios cited above were arrived at after reprocessing approximately 200 previously processed and approved HUD cases. The former 38 and 53 percent ratios generally equated to these proposed ratios.

Provision is made in the rule that determinations of adequacy of mortgagor income shall be made in a uniform manner without regard to race, color, religion, sex, national origin, familial status, handicap, marital status, source of income of the mortgagor or location of the property.

Public Comments

Thirty three written comments were received from the public on the proposed rule. There were three comments from members of Congress, eight from regional or local trade associations, seven from national trade or other organizations, eight from state or local energy-related governmental agencies, four from individuals and three from individual businesses. The issues raised by the commenters fell into three major catagories.

I. Removal of Current Limits on Loan Origination Fees

For the reasons stated earlier in this preamble, this final rule does not contain the proposal to remove current limits on loan origination fees. The comments received on this proposed rule are indicated in this preamble's earlier discussion of the proposal.

II. Revision of Mortgagor Income Requirements-Qualifying Ratios

Thirteen commenters addressed this issue. Three commenters were opposed to the revision—ten were in favor of it. Many commenters added specific recommendations concerning the qualifying ratios that should be applied.

The rule removes current specific guidelines from the regulatory text and provides a more flexible and realistic standard. The new standard (in conformity with general industry practice), would substitute the concept of gross income rather than the concept of "net effective income" currently used. Guideline income and fixed payment ratios will be set by HUD in administrative instructions.

The following response by a national housing organization is typical of those who oppose the proposal, mainly on the

ground that the qualifying ratios to be used by HUD are improper.

As described in the proposed rule, qualifying ratios would be based on gross income rather than "net-effective" income, and the definition of housing expense would be that used by conventional lenders (principal, interest, taxes and insurances). The measure of total fixed payments would also be adjusted to that used by conventional lenders by dropping social security, and state and local taxes. This approach, while consistent with streamlining efforts we support, does not offer an advantage to homebuyers since the method currently used by FHA to determine housing expense is sensitive to local conditions such as energy costs and taxes.

However, our major objection is to the proposed upper limit ratio of 38 percent. Our analysis of a sample of FHA cases actually approved indicates that a literal application of the proposed 29–38% would have resulted in disapproving almost half of all cases. In all but one case, exceeding the fixed payment ratio would have been the cause. This analysis also indicates that current underwriting ratios (38–53%) were routinely exceeded in order to qualify a buyer. In fact, the fixed payment ratio (53%) is so restrictive that it would, if strictly applied, disqualify most buyers with typical monthly obligations such as a car payment or child support. HUD has had to rely heavily on compensating factors to qualify borrowers under the current ratio system. The implication of this analysis is that unless HUD is prepared to exceed its proposed ratios in a significant number of cases, a large fraction of borrowers who would have been accepted for insurance under current practices will be excluded from participation in the program. It was the [national housing organization's] understanding that HUD's goal was to streamline processing without excluding any borrower who would qualify under current requirements.

A system that is designed to rely on exceptions to make it work reasonably is inefficient and potentially damaging. It would seem more appropriate to set the ratios at a level that permits borrowers to qualify without having to rely routinely on compensating factors, a process that subjects an underwriter to being second guessed in the event a loan goes into default.

We strongly urge the Department to consider a fixed payment ratio of 42 percent. HUD previously concluded that 42 percent was a level which was comparable to HUD's current 53 percent ratio. We see no evidence to suggest that lowering this ratio to 38 percent represents either good policy or sound program administration.

With respect to the fixed payment ratio of 38 percent set forth in the preamble to the proposed rule, this has been increased to 41 percent in this final rule. With respect the earlier comment urging that the "net effective income" concept is more sensitive to local needs, we believe that the special provisions set forth in the Preamble to this final rule with respect to heat and energy costs go a considerable way toward meeting this concern.

III. Proposal not to Include Energy Expenses in Estimates of Monthly Housing Expense

Fourteen commenters, mainly State or local energy offices, or regional associations, objected strongly to this proposal.

The preamble to the proposed rule noted that HUD was reconsidering its policy of including anticipated monthly maintenance and repairs and heat and utility costs as part of its the housing expense analysis. It concluded that monthly estimates for maintenance and repairs often did not reflect the actual amounts expended for these items. Although heat and utility estimates can be more accurately projected, HUD was opting for using a monthly housing expense estimate which included only the principal, interest, taxes and insurance (PITI) and related costs such as MIP and homeowner or condominium fees where applicable. It noted that this is the approach used by conventional lenders and invited the views of the public on this decision, stating that it would give careful consideration to such views in developing a final rule.

Typical of the objections are those raised by a state Energy office.

We feel as though HUD will be doing a disservice to both taxpayers and mortgagors by deleting utility costs as a criterion for determining income eligibility. In Arkansas, it is not uncommon for utility costs to equal or exceed the principal and interests on mortgages. A number of lending institutions have recognized this fact and make efforts to consider the energy efficiency of houses in their income eligibility requirements. The debt-to-income ratio can be adjusted to the benefit of the mortgagor if he/she is purchasing an energy efficient house. Failure to consider energy costs should only serve to increase the number of failed mortgages.

As noted earlier, largely in response to these comments HUD has revised its initial policy to permit the mortgagor qualifying ratios to be increased up to 2 percent for homes considered to be energy efficient. The local HUD Field Offices will determine the energy efficiency standards that must be met to be eligible for an increase in the ratios.

Procedural Requirements

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since, in general, it would not significantly change mortgagor eligibility or FHA insurance benefits, but instead would increase the efficiency of mortgage insurance application processing.

This rule was listed as item H–18–87 [Sequence Number 953] in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16728) under Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m. weekdays) in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises in domestic or export markets.

The home mortgage insurance programs affected by the rule are listed in the Catalog of Federal Domestic Assistance under program numbers 14.108 Rehabilitation Mortgage Insurance; 14.117 Mortgage Insurance—Homes; 14.119 Mortgage Insurance—Homes for Disaster Victims; 14.120 Mortgage Insurance— Homes for Low and Moderate Income Families; 14.121 Mortgage Insurance—Homes in Outlying Areas; 14.122 Mortgage Insurance—Homes in Urban Renewal Areas; 14.123 Mortgage Insurance—Housing in Older, Declining Areas; 14.130 Mortgage Insurance—Purchase by Homeowners of Fee Simple Title from Lesssors; 14.133 Mortgage Insurance—Purchase of Units in Condominiums; 14.140 Mortgage Insurance—Special Credit Risks; 14.159 Section 245 Graduated Payment Mortgage Program; 14.161 Single Family Home Mortgage Coinsurance; 14.165 Mortgage Insurance—Homes—Military Impacted Areas; 14.166 Mortgage Insurance—Homes for Members of the Armed Services; 14.172 Mortgage

Insurance—Growing Equity Mortgages; 14.175 Adjustable Rate Mortgages.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order.

Specifically, the requirements of this rule are directed to mortgagors and lenders and do not impinge upon the relationship between the Federal government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. The rule involves rationalizing income requirements for mortgage loans insured by the Department. No substantive changes are made in these requirements however, so any effect on the family would likely be indirect and insignificant.

List of Subjects

24 CFR Part 203

Mortgage insurance; Home improvement; Loan programs; Housing and community development; Solar energy.

24 CFR Part 213

Mortgage insurance; Cooperatives.

24 CFR Part 234

Condominiums, mortgage insurance; Homeownership; Projects; Units.

Accordingly, 24 CFR parts 203, 213, and 234 are amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715(u)).

2. In § 203.33, paragraph (a) is revised and a new paragraph (c) is added, to read as follows:

§ 203.33 Relationship of income to mortgage payments.

(a) Adequacy of mortgagor's gross income. A mortgagor must establish, to the satisfaction of the Secretary, that his or her gross income is and will be adequate to meet (1) the periodic payments required by the mortgage submitted for insurance and (2) other long-term obligations.

* * * * *

(c) Determinations of adequacy of mortgagor income under this section shall be made in a uniform manner without regard to race, color, religion, sex, national origin, familial status, handicap, marital status, source of income of the mortgagor or location of the property.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

3. The authority citation for 24 CFR part 213 continues to read as follows:

Authority: Secs. 211, 213, National Housing Act (12 U.S.C. 1715b, 1715e); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. In § 213.521, paragraph (a) is revised and a new paragraph (c) is added, to read as follows:

§ 213.521 Relationship of income to mortgage payments.

(a) Adequacy of mortgagor's gross income. A mortgagor must establish, to the satisfaction of the Secretary, that his or her gross income is and will be adequate to meet (1) the periodic payments required by the mortgage submitted for insurance and (2) other long-term obligations.

* * * * *

(c) Determinations of adequacy of mortgagor income under this section shall be made in a uniform manner without regard to race, color, religion, sex, national origin, familial status, handicap, marital status, source of income of the mortgagor or location of the property.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

5. The authority citation for 24 CFR part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b and 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. Section 234.56 is revised to read as follows:

§ 234.56 Relationship of income to mortgage payments.

(a) A mortgagor must establish, to the satisfaction of the Secretary, that his or her gross income is and will be adequate to meet (1) the periodic payments required by the mortgage submitted for insurance and (2) other long-term obligations.

(b) Determinations of adequacy of mortgagor income under this section shall be made in a uniform manner without regard to race, color, religion, sex, national origin, familial status, handicap, marital status, source of income of the mortgagor or location of the property.

Dated: September 6, 1989.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 89-22147 Filed 9-19-89; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8263]

RIN 1545-AL24

Definition of Functional Currency

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains both final and temporary Income Tax Regulations relating to the definition of functional currency. Under the Tax Reform Act of 1986 all federal income tax determinations are made in a taxpayer's or a qualified business unit's (QBU's) functional currency. These final and temporary regulations are necessary to provide guidance to taxpayers and QBUs which must determine their functional currency in order to determine United States income tax liabilities. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: Sections 1.985–0 through 1.985–4 of the final regulations and the removal of §§ 1.935–0T through 1.985–4T of the temporary regulations are effective for all taxable years beginning after October 20, 1989. These final regulations may be applied to all

taxable years beginning after December 31, 1986.

Temporary regulation §§ 1.985–5T, 1.985–6T, and 1.989(b)–1T are effective for all taxable years beginning after December 31, 1986.

The amendment to § 602.101 is effective October 20, 1989.

FOR FURTHER INFORMATION CONTACT: Carol Murphy of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, (Attention: CC:CORP:T:R (INTL–962–86)) (202–566–3160, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1051. The estimated annual burden per respondent/recordkeeper varies from .75 hours to 1.75 hours, depending on individual circumstances, with an estimated average of 1.25 hours.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (1545–1051), Washington DC 20503.

Background

On June 3, 1988, the **Federal Register** published proposed amendments (53 FR 20308 (1988)) to the Income Tax Regulations (26 CFR part 1) under section 985 of the Internal Revenue Code of 1986, in order to conform the regulations to section 1261 of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2085, 2590). Written comments responding to this notice were received. No public hearing was requested or held. After consideration of all comments regarding the proposed amendments, §§ 1.985–1 through 1.985–4 are adopted by this Treasury Decision with revisions in response to those comments. The comments and revisions are discussed below. In addition, this Treasury Decision also sets forth temporary Income Tax Regulation § 1.985–5T which was previously reserved, to set forth the adjustments necessary on a change in functional currency. Also set forth is temporary Income Tax Regulation § 1.985–6T which provides transition rules for a QBU that uses the dollar approximate separate transactions method for its first taxable year beginning in 1987, and temporary Income Tax Regulation § 1.989(b)–1T which provides the definition of weighted average exchange rate.

Need for Temporary Regulations

Section 1.985–5T is necessary in order to provide taxpayers with immediate guidance as to the adjustments that are necessary when a taxpayer or a QBU changes functional currency, as determined under section 985. Section 1.985–6T is necessary in order to provide taxpayers with immediate guidance as to the transition rules to apply to a QBU that uses the dollar approximate separate transactions method for its first taxable year beginning in 1987. Section 1.989(b)–1T is also necessary in order to provide taxpayers with immediate guidance as to the calculation of the appropriate weighted average exchange rate. Therefore, good cause is found to dispense with the notice and public procedure requirements of 5 U.S.C. 553(b) and the delayed effective date requirement of 5 U.S.C. 553(d).

Explanation of Provisions

Section 1.985–1 Determination of Taxpayer's or Its QBU's Functional Currency

Section 1.985–1(b)(6) has been added to specifically provide that effectively connected income activities will be treated as a separate qualified business unit (QBU) that has the dollar as its functional currency. This rule clarifies that effectively connected income is determined in the United States dollar (dollar).

Several comments were received with respect to the facts and circumstances that are considered in determining the economic environment of a QBU under paragraph (c)(2). In response, an additional factor, the currencies in which pricing and other financial decisions are made, was added to paragraph (c)(2)(i). This provision is illustrated in new Example (6). Like the proposed regulations, the factors listed are not meant to be exclusive nor is any particular weight given to any factor.

In response to questions concerning the effect of the books and records presumption, paragraph (c)(3) has been changed to provide that a QBU may not use the books and records presumption affirmatively. The books and records presumption was adopted to prevent a QBU from effectively electing out of using the currency of its economic environment as its functional currency by simply not keeping books and records. This presumption was not intended to allow QBUs to elect to use a currency as their functional currency where they do not actually keep books and records in the currency.

In response to several comments, paragraph (c)(5) has been changed to make it clear that a QBU's GAAP currency is only relevant where the QBU is not otherwise required to use the dollar under paragraph (b). In this regard, Examples (3), (5), and (6) of the proposed regulations have been removed because of apparent confusion they created on this point.

Several commentators suggested that QBUs should not be required to calculate gain or loss on nonfunctional currency transactions on a strict transaction-by-transaction basis. In response, paragraph (e) has been changed to provide that nonfunctional currency transactions shall be accounted for as provided under section 988.

In response to a comment, Example (2) has been added to paragraph (f) to illustrate that a domestic regulated investment company operating exclusively abroad can have a QBU which has a nondollar functional currency. This example also shows that a functional currency may differ from a GAAP currency, especially where the GAAP currency is determined under facts and circumstances that differ from those listed in paragraph (c)(2).

Section 1.985–2 Election to Use the United States Dollar as the Functional Currency of a QBU

Two commenters suggested that the dollar election should not be limited to QBUs in hyperinflationary economies. This suggestion was not adopted because of a perceived reluctance on the part of taxpayers to use the method on a worldwide basis. Worldwide conformity would lessen the opportunity to select one method over another for tax motivated reasons. However, the Service is interested in receiving comments from taxpayers who would be willing to make the dollar election on a worldwide basis, with appropriate related party conformity rules.

One commenter suggested that all QBUs which use the dollar as their functional currency under § 1.985–1 be

allowed to use the dollar approximate separate transactions method. This suggestion was not adopted since such QBUs presumably must keep dollar books and records in the ordinary course of their business.

It was suggested that a currency should be presumed to be hyperinflationary if it is hyperinflationary for GAAP purposes. This suggestion was not adopted because the conformity rules necessitate a readily available objective standard. If the information that is necessary for making the hyperinflationary determination is not available in the "International Financial Statistics," paragraph (b)(2) now allows the QBU to use any other reasonable method consistently applied for determining the country's consumer price index. In addition, paragraph (b)(2) has been changed to provide that the base period used in calculating whether a currency is hyperinflationary means the thirty-six calendar months immediately preceding the last day of the preceding taxable year.

Under paragraph (c)(2) of the proposed regulations, QBUs electing the dollar were required to file a statement of such election. In order for the Service to better track who is using the dollar method, the election will generally require the filing of a new Form 8819. This form will merely require the same information as the election procedures under the Temporary Regulations. Until Form 8819 is released, the election must continue to be made under the procedures set forth in the Temporary Regulations.

Several commenters requested that the time and manner for making the dollar election for 1987 be extended. The rules were not changed because § 1.9100–1 (relating to time for making certain elections) provides a remedy for late elections. Requests for relief will be considered on a case by case basis. See Rev. Proc. 79–63, 1979–2 C.B. 578. In any event, the dollar election may be made in a later year without the Commissioner's consent.

Paragraph (d)(2)(ii) has been changed to allow a QBU to use a method other than the dollar approximate separate transactions method where the QBU demonstrates that it can compute its currency gain or loss under section 988 with respect to each of its section 988 transactions. However, if in a future year the QBU can no longer demonstrate that it can properly employ such an alternative method, then the QBU will be deemed to have changed its method of accounting to the dollar approximate separate transactions method. In such an event the QBU shall simply begin accounting for its operations in accordance with § 1.985–3.

Paragraph (d)(3) generally provides that if a taxpayer makes a dollar election pursuant to § 1.985–2, and thus uses the dollar approximate separate transactions method or the alternative method described in the preceding paragraph, then each eligible QBU that is related to the taxpayer must use the dollar as its functional currency. Two commenters suggested that the conformity rule found in paragraph (d)(3) be removed or limited to related QBUs having the same functional currency (absent the election). This suggestion was not adopted to prevent a taxpayer from selectively using the dollar approximate separate transactions method only where the taxpayer has a favorable asset/liability mix. No taxpayer suggested that a profit and loss method of accounting accurately reflects income in a hyperinflationary environment.

Paragraph (d)(4) sets forth the adjustments that are necessary when a QBU changes to the dollar as its functional currency under § 1.985–2. Since § 1.985–5T sets forth general rules on the adjustments that are necessary when changing functional currency, paragraph (d)(4)(i) has been changed to provide that if a QBU's functional currency changes to the dollar due to a dollar election or due to the conformity rule of paragraph (d)(3), the QBU must make those adjustments required by § 1.985–5T (or any succeeding final regulation).

Section 1.985–2(d)(5) has been added to clarify which taxable year a related person shall make the adjustments required under paragraph (d)(4).

Section 1.985–2(d)(6) clarifies the rule in the proposed regulations that an election may be made by or on behalf of a QBU in any year in which the QBU is an eligible QBU. If the QBU changes to a dollar functional currency under this paragraph, it must make those adjustments required under § 1.985–5T (or any succeeding final regulation).

Section 1.985–2(d)(7) provides that regardless of any change in circumstances (*e.g.*, a currency ceases to be hyperinflationary), a QBU whose functional currency is the dollar under § 1.985–2 may change its functional currency only as allowed under § 1.985–4.

Section 1.985–3 United States Dollar Approximate Separate Transactions Method

Several commenters suggested that QBUs should be permitted to use GAAP hyperinflationary accounting rather than the dollar approximate separate transactions method (DASTM). This suggestion was not adopted because the DASTM incorporates tax accounting principles not reflected in the GAAP accounting method.

Paragraph (c)(2) has been reorganized in order to clarify how cost of goods sold is computed. The reorganization in no way changes the substantive rules of this paragraph.

One commenter suggested that more flexibility should be allowed in determining the average exchange rate. This suggestion was not adopted because the simple average rate is easily determinable and not subject to manipulation.

In response to a comment, paragraph (c)(7)(ii) of the proposed regulations relating to third currency transactions has been removed. Therefore, no special accounting adjustments are required for third currency transactions. Rather, they are accounted for like any other nondollar transaction. However, in computing the hyperinflationary amount of a third currency asset and liability and the hyperinflationary amount of an eligible QBU's profit and loss or earnings and profits (or deficit in earnings and profits) the principles of section 988 will apply with respect to third currency transactions.

Section 1.985–3(d) provides rules for determining currency gain or loss under the DASTM. Section 1.9B5–3(d)(2) provides that a QBU's currency gain or loss is generally equal to the difference between the QBU's net change in its equity (assets less liabilities) determined under § 1.985–3(d) and the QBU's dollar profit or loss determined under § 1.985–3(c). In making this calculation, however, the QBU must also adjust for certain transactions that affected the QBU's books but should not affect the QBU's net change in its equity. Paragraph (d)(2) has been changed to require that the QBU translate certain adjusting items (*e.g.*, dividends and remittances) into dollars at the spot rate on the relevant date. This change has been made in order to make the DASTM a closer approximation to separate transactions. In addition, capital contributions are now an adjustment in calculating currency gain or loss under this paragraph (d)(2).

Section 1.985–3(d)(4) describes how a QBU calculates its net worth. Net worth is defined as being equal to the dollar amount of the QBU's assets less the dollar amount of its liabilities. This amount is no longer adjusted by prior year's paid-in capital or reserves. This change was made because of certain accounting problems that occurred where a QBU adjusted its net worth for

capital contributions and because it has been determined that there is no need to adjust net worth for any type of reserves. The term "net worth" has been adopted because it is more reflective of the computation than the formerly used term "retained earnings."

Section 1.985–3(d)(5)(vi) has been changed to make it clear that amounts representing long-term liabilities, including any amounts of such liabilities that become short-term during the taxable year, shall be translated at the average exchange rate for the translation period in which the liability was incurred.

Section 1.985–4 Method of Accounting

Section 1.985–4(d) is substantially unchanged. One commenter suggested that a taxpayer have a one time opportunity to change functional currencies without the consent of the Commissioner where under the facts and circumstances the taxpayer thought it was required to use the dollar under § l.985–1T(b)(2). While this suggestion was not adopted, taxpayers have the ability to request a change in functional currencies under § 1.985–4. One factor that may be considered in granting a change is a misapplication of the facts and circumstances test.

Section 1.985–5T Adjustments Required Upon Change in Functional Currency

Section 1.985–5T(a) provides that a QBU changing to a new functional currency must make those adjustments required by the 3-step procedure set forth in § 1.985–5T (b) through (e). These adjustments must be made on the last day of the QBU's taxable year ending prior to the date it changes functional currencies. Except as provided in § 1.985–6T, the principles of § 1.985–5T shall also apply where a QBU's functional currency for its first taxable year beginning in 1987 is different from the currency in which it kept its books and records for United States accounting and tax accounting purposes for its prior taxable year. Thus, for example, it would not apply if a QBU that used the dollar approximate separate transactions method for the QBU's first taxable year beginning in 1987 used a net worth method of accounting for such prior taxable year. *See* § 1.985–6T.

Section 1.985–5T(b) provides that the QBU must first recognize or otherwise take into account any unrealized exchange gain or loss attributable to a section 988 transaction that is denominated in terms of or by reference to the QBU's new functional currency. This gain or loss shall be determined without regard to the market gain or loss on the transaction as a whole.

Section 1.985–5T(c) provides that the QBU must generally then determine the new functional currency adjusted bases of its assets and the new functional currency amounts of its liabilities and any other relevant amounts. All such new amounts shall be determined by translating the old functional currency amounts of such items into new functional currency amounts at the spot rate.

The third step is broken into two parts, § 1.985–5T(d) providing for further adjustments that are necessary when a branch changes functional currency and § 1.985–5T(e) providing for further adjustments that are necessary when a taxpayer changes functional currency.

Section 1.985–5T(d)(1) provides that when a branch changes to a functional currency other than the taxpayer's functional currency, the branch shall make certain adjustments for purposes of section 987. If such a branch's old functional currency was different from the taxpayer's functional currency, § 1.985–5T(d)(1)(i) provides that the branch's new functional currency equity pool shall be determined by translating the branch's old functional currency equity pool into new functional currency at the spot rate. If instead the branch's old functional currency was the same as the taxpayer's functional currency, the branch's equity basis pool shall equal its equity (assets less liabilities) as of the time of the change. The branch's equity pool shall then be determined by translating the equity basis pool into the branch's new functional currency at the spot rate.

Section 1.985–5T(d)(2) provides that if a branch changes to the taxpayer's functional currency, the branch shall be treated as if it terminated and the taxpayer shall realize currency gain or loss under the principles of section 987.

Section 1.985–5T(e)(1) provides that a corporation changing functional currency shall determine the new functional currency amount of earnings and profits and capital by translating the old functional currency amount at the spot rate.

Section 1.985–5T(e)(2) sets forth certain collateral consequences to a United States shareholder of a foreign corporation changing to the dollar as its functional currency. In such a case, the shareholder shall take into account any unrealized foreign currency gain or loss computed under section 986(c) as if any previously taxed earnings and profits were distributed immediately prior to the change. In addition, the shareholder will also recognize gain or loss attributable to the corporation's paid-in capital to the extent provided, if any, in future regulations under section 367(b) or 985.

Section 1.985–5T(e)(3) relating to taxpayers that are not corporations has been reserved.

Section 1.985–5T(e)(4) sets forth adjustments that are necessary for a branch of a taxpayer that changes functional currencies. These adjustments are the same as those required under §§ 1.985–5T(d) (1) and (2).

Section 1.985–5T(f) provides examples illustrating the provisions of § 1.985–5T.

Section 1.985–6T Transition Rules for a QBU That Uses the Dollar Approximate Separate Transactions Method for Its First Taxable Year Beginning After December 31, 1986.

This section incorporates transition rules that were previously issued under Notice 88–101, 1988–2 C.B. 441. These rules are now set forth in § 1.985–6T (a) through (d). In addition, § 1.985–6T(e) provides transition rules for a branch that previously used a profit and loss method of accounting and changes to the DASTM for its first taxable year beginning in 1987. Such branches must first apply the transition rules of § 1.987–1T or its successor provision and then make any adjustments set forth in § 1.985–5T (or any succeeding final regulation).

Section 1.989(b)–1T Definition of Weighted Average Exchange Rate

This Treasury Decision also provides temporary regulations relating to the definition of weighted average exchange rate under section 989(b). The regulation generally adopts the definition which was set forth in Notice 88–102, 1988–2 C.B. 442. In response to commenters, the daily average exchange rate shall be computed on the basis of business days.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these final regulations is David Rosenberg of the Office of Associate Chief Counsel (International) within the Office of Chief

Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and the Treasury Department participated in developing the regulations.

List of Subjects

26 CFR 1.861–1 through 1.997–1

Income taxes, Corporate deductions, Aliens, Exports, DISC, Foreign Investments in U.S., Foreign tax credit, FSC, Sources of income, U.S. investments abroad.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. The authority for part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

§§ 1.985–0T through 1.985–4T

Par. 2. Sections 1.985–0T through 1.985–4T are removed.

Par. 3. New §§ 1.985–0 through 1.985–4 and 1.985–6T are added at the appropriate places and § 1.985–5T is revised to read as follows:

§ 1.985–0 Outline of regulation.

This section lists the paragraphs contained in §§ 1.985–1 through 1.985–6T.

§ 1.985–1 Functional currency.

(a) Applicability and effective date.
(b) Dollar functional currency.
(c) Functional currency of a QBU that is not required to use the dollar.
(d) Single functional currency for a foreign corporation.
(e) Translation of nonfunctional currency transactions.
(f) Examples.

§ 1.985–2 Election to use the United States dollar as the functional currency of a QBU.

(a) Background and scope.
(b) Eligible QBU.
(c) Time and manner for dollar election.
(d) Effect of dollar election.

§ 1.985–3 United States dollar approximate separate transactions method.

(a) Scope.
(b) In general.
(c) Translation into United States dollars.
(d) Currency gain or loss.

§ 1.985–4 Method of accounting.

(a) Adoption or election.
(b) Condition for changing functional currencies.
(c) Relationship to certain other sections of the Code.

§ 1.985–5T Adjustments required upon change in functional currency (Temporary regulation).

(a) In general.
(b) Step 1—Taking into account exchange gain or loss on certain section 988 transactions.
(c) Step 2—Determining the new functional currency basis of property and the new functional currency amount of liabilities and any other relevant items.
(d) Step 3A—Additional adjustments that are necessary when a branch changes functional currency.
(e) Step 3B—Additional adjustments that are necessary when a taxpayer changes functional currency.
(f) Examples.

§ 1.985–6T Transition rules for a QBU that uses the dollar approximate separate transactions method for its first taxable year beginning in 1987.

(a) In general.
(b) Certain controlled foreign corporations.
(c) All other foreign corporations.
(d) Net worth branch.
(e) Profit and loss branch.

§ 1.985–1 Functional currency.

(a) Applicability and effective date—(1) *Purpose and scope.* These regulations provide guidance with respect to defining the functional currency of a taxpayer and each qualified business unit (QBU), as defined in section 989(a). Generally, a taxpayer and each QBU must make all determinations under subtitle A of the Code (relating to income taxes) in its respective functional currency. This section sets forth rules for determining when the functional currency is the United States dollar (dollar) or a currency other than the dollar. Section 1.985–2 provides an election to use the dollar as the functional currency for certain QBUs that absent the election would have a functional currency that is a hyperinflationary currency, and explains the effect of making the election. Section 1.985–3 sets forth the accounting method electing QBUs must use to compute their income or loss or earnings and profits. Section 1.985–4 provides that the adoption of a functional currency is a method of accounting and sets forth conditions for a change in functional currency. Section 1.985–5T provides adjustments that are required to be made upon a change in functional currency. Finally, § 1.985–6T provides transition rules for a QBU that uses the dollar approximate separate transactions method for its first taxable year beginning after December 31, 1986.

(2) *Effective date.* These regulations apply to taxable years beginning after December 31, 1986. However, any taxpayer desiring to apply temporary Income Tax Regulations § 1.985–0T through § 1.985–4T in lieu of these regulations to all taxable years beginning after December 31, 1986, and on or before October 20, 1989 may (on a consistent basis) so choose. For the text of the temporary regulations, see 53 FR 20308 (1988).

(b) *Dollar functional currency.* The dollar shall be the functional currency of a taxpayer or QBU described in any of the following regardless of the currency used in keeping its books and records (as defined in § 1.989(a)–1T(d) or any succeeding Final Regulations):

(1) A taxpayer that is not a QBU (*e.g.*, an individual);

(2) A QBU that conducts its activities primarily in dollars. A QBU conducts its activities primarily in dollars if the currency of the economic environment in which the QBU conducts its activities is primarily the dollar. The facts and circumstances test set forth in paragraph (c)(2) of this section shall apply in making this determination;

(3) Except as otherwise provided, a QBU that has the United States, or any possession or territory of the United States where the dollar is the standard currency, as its residence (as defined in section 988(a)(3)(B));

(4) A QBU that elects to use, or is otherwise required to use, the dollar as its functional currency under § 1.985–2;

(5) A QBU that does not keep books and records in the currency of any economic environment in which a significant part of its activities is conducted. Whether a QBU keeps such books and records is determined in accordance with paragraph (c)(3) of this section; or

(6) Any activity (wherever conducted and regardless of its frequency) that produces income or loss that is, or is treated as, effectively connected with the conduct of a trade or business within the United States shall be treated as a separate QBU with a dollar functional currency.

Regardless of any change in circumstances, a QBU described in this paragraph (b) may change its functional currency only if the QBU complies with § 1.985–4.

(c) *Functional currency of a QBU that is not required to use the dollar*—(1) *General rule.* The functional currency of a QBU that is not required to use the dollar under paragraph (b) of this section shall be the currency of the economic environment in which a significant part of the QBU's activities is

conducted, if the QBU keeps, or is presumed under paragraph (c)(3) of this section to keep, its books and records in such currency.

(2) *Economic environment.* For purposes of section 985 and the regulations thereunder, the economic environment in which a significant part of a QBU's activities is conducted shall be determined by taking into account all the facts and circumstances.

(i) *Facts and circumstances.* The facts and circumstances that are considered in determining the economic environment in which a significant part of a QBU's activities is conducted include, but are not limited to, the following:

(A) The currency of the country in which the QBU is a resident as determined under section 988(a)(3)(B);

(B) The currencies of the QBU's cash flows;

(C) The currencies in which the QBU generates revenues and incurs expenses;

(D) The currencies in which the QBU borrows and lends;

(E) The currencies of the QBU's sales markets;

(F) The currencies in which pricing and other financial decisions are made;

(G) The duration of the QBU's business operations; and

(H) The significance and/or volume of the QBU's independent activities.

(ii) *Rate of inflation.* The rate of inflation (regardless of how it is determined) shall not be a factor used to determine a QBU's economic environment.

(iii) *Consistency.* A taxpayer must consistently apply the facts and circumstances test set forth in this paragraph (c)(2) in evaluating the economic environment of its QBUs, *e.g.*, its branches, that engage in the same or similar trades or businesses.

(3) *Books and records presumption.* A QBU shall be presumed to keep books and records in the currency of the economic environment in which a significant part of its activities are conducted. The presumption may be overcome only if the QBU can demonstrate to the satisfaction of the district director that a substantial nontax purpose exists for not keeping any books and records in such currency. A taxpayer may not use this presumption affirmatively in determining a QBU's functional currency.

(4) *Multiple currencies.* If a QBU has more than one currency that satisfies the requirements of paragraph (c)(1) of this section, the QBU may choose any such currency as its functional currency.

(5) *Relationship of United States accounting principles.* In making the functional currency determination under this paragraph (c), the currency of the QBU for purposes of United States generally accepted accounting principles (GAAP) will ordinarily be accepted as the functional currency of the QBU for income tax purposes, provided that the GAAP determination is based on facts and circumstances substantially similar to those set forth in paragraph (c)(2) of this section.

(6) *Effect of changed circumstances.* Regardless of any change in circumstances, a QBU may change its functional currency determined under this paragraph (c) only if the QBU complies with § 1.985–4 or the Commissioner's consent is considered to have been granted under § 1.985–2(d)(4).

(d) *Single functional currency for a foreign corporation*—(1) *General rule.* This paragraph (d) applies to a foreign corporation that has two or more QBUs that do not have the same functional currency. The foreign corporation shall be treated as having a single functional currency for the corporation as a whole that is different from the functional currency of one or more of its QBUs. The determination of a foreign corporation's functional currency shall be made by first applying paragraph (d)(1)(i) and then paragraph (d)(l)(ii) of this section.

(i) *Step 1.* Each QBU of the foreign corporation determines its functional currency in accordance with the rules set forth in paragraphs (b) and (c) of this section and § 1.985–2.

(ii) *Step 2.* The foreign corporation determines its functional currency applying the principles of paragraphs (b) and (c) of this section to the corporation's activities as a whole. Thus, if a foreign corporation has two branches, the corporation shall determine its functional currency by applying the principles of paragraphs (b) and (c) of this section to the combined activities of the corporation and the branches.

For purposes of this paragraph (d)(1), if a QBU of a foreign corporation has the dollar as its functional currency under § 1.985–2, the QBU's activities shall be considered dollar activities of the corporation.

(2) *Translation of income or loss of QBUs having different functional currencies than the foreign corporation as a whole.* Where the functional currency of a foreign corporation as a whole differs from the functional currency of one or more of its QBUs, each such QBU shall determine the amount of its income or loss or earnings and profits (or deficit in earnings and profits) in its functional currency under the principles of section 987 (relating to branch transactions). The amount of income or loss or earnings and profits (or deficit in earnings and profits) of each QBU in its functional currency shall then be translated into the foreign corporation's functional currency using the appropriate exchange rate as defined in section 989(b)(4) for purposes of determining the corporation's income or loss or earnings and profits (or deficit in earnings and profits).

(e) *Translation of nonfunctional currency transactions.* Except for a QBU using the dollar approximate separate transactions method described in § 1.985–3, *see* section 988 and the regulations thereunder for the treatment of nonfunctional currency transactions.

(f) *Examples.* The provisions of this section are illustrated by the following examples:

Example (1). P, a domestic corporation, operates exclusively through foreign branch X in Country A. X is a QBU within the meaning of section 989(a) and its residence is Country A as determined under section 988 (a)(3)(B). The currency of Country A is the LC. All of X's purchases, sales, and expenses are in the LC. The laws of A require X to keep books and records in the LC. It is determined that the LC is the currency of X under United States generally accepted accounting principles. This determination is based on facts and circumstances substantially similar to those set forth in paragraph (c)(2) of this section. Under these facts, while the functional currency of P is the dollar since its residence is the United States, the functional currency of X is the LC.

Example (2). P, a publicly-held domestic regulated investment company (as defined under section 851), operates exclusively through foreign branch B in Country R. B is a QBU within the meaning of section 989(a) and its residence is Country R as determined under section 988(a)(3)(B). The currency of Country R is the LC. B's principal activities consist of purchasing and selling stock and securities of Country R companies and securities issued by Country R. It is determined that the dollar is the currency of B under United States generally accepted accounting principles. This determination is not based on facts and circumstances substantially similar to those set forth in paragraph (c)(2) of this section. Under these facts, while the functional currency of P is the dollar since its residence is the United States, B may choose the LC as its functional currency because it has significant activities in the LC provided it keeps books and records in the LC. The fact that the dollar is the currency of B under generally accepted accounting principles is irrelevant for purposes of determining B's functional currency because the GAAP determination was not based on factors similar to those set forth in paragraph (c)(2) of this section.

Example (3). P, a domestic bank, operates through foreign branch X in Country R. X is a QBU within the meaning of section 989(a)

and its residence is Country R as determined under section 988(a)(3)(B). The currency of Country R is the LC. The laws of R require X to keep books and records in the LC. The branch customarily loans dollars and LCs. In the case of its LC loans, X ordinarily fixes the terms of the loans by reference to a contemporary London Inter-Bank Offered Rate (LIBOR) on dollar deposits. For instance, the interest on the amount of the outstanding LC loan principal might equal LIBOR plus 2 percent and the amount of the outstanding LC loan principal would be adjusted to reflect changes in the dollar value of the LC. X is primarily funded with dollar-denominated funds borrowed from related and unrelated parties. X's only LC activities are paying local taxes, employee wages, and local expenses such as rent and electricity. Under these facts, X's activities are primarily conducted in dollars. Thus, although X keeps its books and records in LCs, X's functional currency is the dollar.

Example (4). S, a foreign corporation organized in Country U, is wholly-owned by P, a domestic corporation. The currency of Country U is the LC. S's sole function is acting as a financing vehicle for P and domestic corporations that are affiliated with P. All borrowing and lending transactions between S and P and its domestic affiliates are in dollars. Furthermore, primarily all of S's other borrowings are dollar-denominated or based on a dollar index. S's only LC activities are paying local taxes, employee wages, and local expenses such as rent and electricity. S keeps its books and records in the LC. Under these facts, S's activities are primarily conducted in dollars. Thus, although S keeps its books and records in LCs, S's functional currency is the dollar.

Example (5). D is a domestic corporation whose primary activity is the extraction of natural gas and oil through foreign branch X in Country Y. X is a QBU within the meaning of section 989(a) and its residence is Country Y as determined under section 988(a)(3)(B). The currency of Country Y is the LC. X bills a significant amount of its natural gas and oil sales in dollars and a significant amount in LCs. X also incurs significant LC and dollar expenses and liabilities. The laws of Country Y require X to keep its books and records in the LC. It is determined that the LC is the currency of X under United States generally accepted accounting principles. This determination is based on facts and circumstances substantially similar to those set forth in paragraph (c)(2) of this section. Absent other factors indicating that X primarily conducts its activities in the dollar, D could choose either the dollar or the LC as X's functional currency because X has significant activities in both the dollar and the LC, provided the books and records requirement is satisfied. If, instead, X's activities were determined to be primarily in the dollar, then X would have to use the dollar as its functional currency.

Example (6). S, a foreign corporation organized in Country U, is wholly-owned by P, a domestic corporation. The currency of U is the LC. S purchases the products it sells from related and unrelated parties, including P. These purchases are made in the LC. In addition, most of S's gross receipts are generated by transactions denominated in the LC. S attempts to determine its LC price for goods sold in such a manner as to obtain an LC equivalent of a certain dollar amount after reduction for all LC costs. However, local market conditions sometimes result in pricing adjustments. Thus, changes in the LC-dollar exchange rate from period to period generally result in corresponding changes in the LC price of S's products. S pays local taxes, employee wages, and other local expenses in the LC. It is determined that the dollar is the currency of S under United States generally accepted accounting principles. This determination is not based on facts and circumstances substantially similar to those set forth in paragraph (c)(2) of this section. Under these facts, S could choose either the dollar or the LC as its functional currency because S has significant activities in both the dollar and the LC, provided that the books and records requirement is satisfied.

Example (7). S, a foreign corporation organized in Country X, is wholly-owned by P, a domestic corporation. S conducts all of its operations through two branches. Branch A is located in Country F and branch B is located in Country G. S, A, and B are QBUs within the meaning of section 989(a). Branch A's and branch B's residences are Country F and Country G respectively as determined under section 988(a)(3)(B). The currency of Country F is the FC and the currency of Country G is the LC. The functional currencies of S, A, and B are determined in a two step procedure.

Step 1: The functional currency of branches A and B. Branch A and branch B both conduct all activities in their respective local currencies. The FC is the currency of branch A and the LC is the currency of branch B under United States generally accepted accounting principles. This determination is based on facts and circumstances substantially similar to those set forth in paragraph (c)(2) of this section. Under these facts, the functional currency of branch A is the FC and the functional currency of branch B is the LC.

Step 2: The functional currency of S. S's functional currency is determined by disregarding the fact that A and B are branches. When A's activities and B's activities are viewed as a whole, S determines that it only conducts significant activities in the LC. Therefore, S's functional currency is the LC. See Examples (9), (10), and (11) for how the earnings and profits of a foreign corporation, which has branches with different functional currencies, are determined.

Example (8). Assume the same facts as in Example (7), except that S does not exist and P conducts all of its operations through branch A and branch B. In this instance P's functional currency in Step 2 is the dollar, regardless of the fact that its branches' activities viewed as a whole are in the LC, because P is a taxpayer whose residence is the United States under section 988(a)(3)(B)(i). Therefore, while the functional currency of branch A is the FC and the functional currency of branch B is the LC, the functional currency of P is the dollar because its residence is the United States.

Example (9). The facts are the same as in Example (7). In addition, assume that in 1987 branch A has earnings of 100 FC and branch B has earnings of 100 LC as determined under section 987. The weighted average exchange rate for the year is 1 FC/2 LC. Branch A's earnings are translated into 200 LC for purposes of computing S's earnings and profits in 1987. Thus, the total earnings and profits of S from branch A and branch B for 1987 is 300 LC.

Example (10). (i) X, a foreign corporation organized in Country W, is wholly-owned by P, a domestic corporation. Both X and P are calendar year taxpayers that began business during 1987. X operates exclusively through two branches, A and B both of which are located outside of Country W. The functional currency of X and A is the LC, while the functional currency of B is the DC as determined under section 985 and § 1.985–1. The earnings of B must be computed under section 987, relating to branch transactions. In 1987, A earns 900 LCs of nonsubpart F income and B earns 200 DCs of nonsubpart F income. Under section 904(d)(2), A's income is financial service income and B's income is general limitation income. In order to determine X's earnings and profits, B's income must be translated into LCs (the functional currency of X). The weighted average exchange rate for 1987 is 1 LC/2 DC. Thus, in 1987 X's current earnings and profits (and its post-1986 undistributed earnings) are 1000 LCs consisting of 900 LCs of financial services income earned by A and 100 LCs (200 DC/2) of general limitation income earned by B. Neither A nor B makes any remittances during 1987.

(ii) In 1988, neither A nor B earns any income or generates any loss. On December 31, 1988, A remits 50 LCs directly to P. The remittance to P is considered to be remitted by A to X and then immediately distributed by X as a dividend. The 50 LC remittance does not result in an exchange gain or loss under section 987 to X because the functional currency of X and A is the LC. See section 987(3). Under section 904(d)(3)(D), the 50 LC dividend is treated as income in a separate category to the extent of the dividend's pro rata share of X's earnings and profits in each separate limitation category. Thus, 90 percent, or 45 LCs, is treated as financial services income, and 10 percent, or 5 LCs, is treated as general limitation income. After the dividend distribution, X has 950 LCs of accumulated earnings and profits (and post-1986 undistributed earnings) consisting of 855 LCs of financial service limitation income and 95 LCs of general limitation income.

Example (11). The facts are the same as in Example (10), except that A makes no remittance during 1988 but B remits 120 DCs to X on December 31, 1988, which X immediately converts into LCs, and X makes no dividend distribution during 1988. Assume that the appropriate exchange rate for the remittance is 1 LC/3 DCs. B's remittance triggers exchange loss to X. See section 987(3). Under section 987, the exchange loss on the remittance is 20 LCs calculated as follows: 40 LCs, which is the LC value of the 120 DC remittance (120 DCs/3), less 60 LCs, their LC basis (120 DCs/2). This loss is sourced and characterized under section 987 and regulations thereunder.

Example (12). F, a foreign corporation, has gain from the disposition of a United States real property interest (as defined in section 897(c)). The gain is taken into account as if F were engaged in a trade or business within the United States during the taxable year and as if such gain were effectively connected with such trade or business. F's disposition activity shall be treated as a separate QBU with a dollar functional currency because such activity produced income that is treated as effectively connected with a trade or business within the United States. Therefore, F must compute its gain from the disposition by giving the United States real property interest an historic dollar basis.

§ 1.985–2 Election to use the United States dollar as the functional currency of a QBU.

(a) *Background and scope.* Section 985(b)(3) of the Code provides that a qualified business unit ("QBU") with a functional currency other than the United States dollar (the "dollar") under section 985(b) (1) and (2) may, to the extent provided in regulations, elect to use the dollar as its functional currency. Pursuant to the regulatory authority provided by section 985(b)(3), this section permits an eligible QBU to elect to use the dollar as its functional currency. An election to use a dollar functional currency is not permitted for a QBU other than an eligible QBU. Paragraph (b) of this section defines an eligible QBU. Paragraph (c) of this section describes the time and manner for making the dollar election, and paragraph (d) of this section describes the effect of making the election. For the definition of a QBU, *see* section 989(a).

(b) *Eligible QBU*—(1) *In general.* The term "eligible QBU" means a QBU that could have used a hyperinflationary currency as its functional currency absent the dollar election. *See* § 1.985–1 for how a QBU determines its functional currency absent the dollar election.

(2) *Hyperinflationary currency.* The term "hyperinflationary currency" means the currency of a country in which there is cumulative inflation during the base period of at least 100 percent as determined by reference to the consumer price index of the country listed in the monthly issues of "International Financial Statistics" or a successor publication of the International Monetary Fund. If a country is not listed in the "International Financial Statistics," a QBU may use any other reasonable method consistently applied for determining the country's consumer price index. Base period means, with respect to any taxable year, the thirty-six calendar months immediately preceding the last day of the preceding taxable year.

(c) *Time and manner for dollar election*—(1) *QBUs that are branches of United States persons*—(i) *Rule.* If an eligible QBU is a branch of a United States person, the dollar election shall be made by attaching a completed Form 8819 to the United States person's timely filed (taking extensions into account) tax return for the first taxable year for which the election is to be effective.

(ii) *Procedure prior to the issuance of Form 8819.* In the absence of Form 8819, the election shall be made in accordance with § 1.985–2T(c)(1). Failure to file an amended return within the time period prescribed in § 1.985–2T(c)(1) shall not invalidate the dollar election if it is established to the satisfaction of the district director that reasonable cause existed for such failure. A subsequent election for 1988 will not prejudice the taxpayer with respect to such reasonable cause determination. Nevertheless, each United States person making an election under the § 1.985–2T(c)(1) must file a Form 8819 in the time and manner provided in the Form's instructions.

(2) *Eligible QBUs that are controlled foreign corporations or branches of controlled foreign corporations*—(i) *Rule.* If an eligible QBU is a controlled foreign corporation (as described in section 957), or a branch of a controlled foreign corporation, the election may be made either by the foreign corporation or by the controlling United States shareholders on behalf of the foreign corporation by—

(A) Filing a completed Form 8819 in the time and manner provided in the Form's instructions, and

(B) Providing the written notice required by paragraph (c)(2)(ii) of this section at the time and in the manner prescribed therein.

The term "controlling United States shareholders" means those United States shareholders (as defined in section 951(b)) who, in the aggregate, own (within the meaning of section 958(a)) greater than 50 percent of the total combined voting power of all classes of stock of the foreign corporation entitled to vote. If the foreign corporation is a controlled foreign corporation (as described in section 957) but the United States shareholders do not, in the aggregate, own the requisite voting power, the term "controlling United States shareholders" means all the United States shareholders (as defined in section 951(b)) who own (within the meaning of section 958(a)) stock of the controlled foreign corporation.

(ii) *Notice.* Prior to filing Form 8819, the controlling United States shareholders (or the foreign corporation, if the dollar election is made by the corporation) shall provide written notice that the dollar election will be made to all United States persons known to be shareholders who own (within the meaning of section 958(a)) stock of the foreign corporation. Such notice shall also include all information required in Form 8819.

(iii) *Reasonable cause exception.* Failure of the controlling United States shareholders (or the foreign corporation, if the dollar election is made by the corporation) to timely file Form 8819 or provide written notice to a United States person required to be notified by paragraph (c)(2)(ii) of this section shall not invalidate the dollar election, if it is established to the satisfaction of the district director that reasonable cause existed for such failure.

(iv) *Procedure prior to the issuance of Form 8819.* In the absence of Form 8819, an eligible QBU described in paragraph (c)(2)(i) of this section shall make the dollar election in accordance with § 1.985–2T(c)(2). Nevertheless, the person or persons that made such election must file a Form 8819 in the time and manner provided in the Form's instructions.

(3) *Eligible QBUs that are noncontrolled foreign corporations or branches of noncontrolled foreign corporations*—(i) *Rule.* If an eligible QBU is a noncontrolled foreign corporation (a foreign corporation not described in section 957), or a branch of a noncontrolled foreign corporation, the dollar election must be made by the corporation or the majority domestic corporate shareholders on behalf of the corporation by applying the rules provided in paragraph (c)(2) (i) (A) and (B), (ii), (iii), and (iv) of this section substituting "majority domestic corporate shareholders" for "controlling United States shareholders" wherever it appears therein. The term "majority domestic corporate shareholders" means those domestic corporate shareholders (as described in section 902(a)) who, in the aggregate, own (within the meaning of section 958(a)) greater than 50 percent of the total combined voting stock of all classes of stock of the noncontrolled foreign corporation entitled to vote that is owned (within the meaning of section 958(a)) by all the domestic corporate shareholders.

(ii) *Procedure prior to the issuance of Form 8819.* In the absence of Form 8819, an eligible QBU described in paragraph (c)(3)(i) of this section shall make the dollar election in accordance with § 1.985–2T(c)(3). Nevertheless, the person or persons that made such election must file a Form 8819 in the

time and manner provided in the Form's instructions.

(4) *Others.* Any other person making a dollar election under this section shall elect by filing Form 8819 and fulfilling any other notice requirements that may be required by the Commissioner.

(d) *Effect of dollar election*—(1) *General rule.* If a dollar election is made (or considered made under paragraph (d)(3) of this section) by or on behalf of an eligible QBU, the QBU shall be deemed to have the dollar as its functional currency. Each United States person that owns (within the meaning of section 958(a)) stock of a foreign corporation which has the dollar as its functional currency under § 1.985–2 must make all of its federal income tax calculations with respect to the foreign corporation using the dollar as the corporation's functional currency (regardless of when ownership was acquired or whether the United States person received the written notice required by paragraph (c)(2)(i)(B) of this section).

(2) *Computation*—(i) *In general.* Except as provided in paragraph (d)(2)(ii) of this section, any eligible QBU that pursuant to this § 1.985–2 has a dollar functional currency must compute income or loss or earnings and profits (or deficit in earnings and profits) in dollars using the dollar approximate separate transactions method described in § 1.985–3.

(ii) *Alternative method.* An eligible QBU that has a dollar functional currency pursuant to this § 1.985–2 may use a method other than the dollar approximate separate transactions method described in § 1.985–3 only if the QBU demonstrates to the satisfaction of the Commissioner that it can properly employ such method. Generally, the QBU must show that it could compute foreign currency gain or loss under the principles of section 988 with respect to each of its section 988 transactions. If subsequently the QBU can no longer demonstrate to the satisfaction of the district director that it can properly employ such an alternative method, then the QBU will be deemed to have changed its method of accounting to the dollar approximate separate transactions method described in § 1.985–3. This change in accounting will be treated as having been made with the consent of the Commissioner. No adjustments under either § 1.985–5T (or any succeeding final regulation) or section 481(a) shall be required solely because of the change. Rather the QBU shall begin accounting for its operations under § 1.985–3 based on its dollar books and records as of the time of the change.

(3) *Conformity*—(i) *General rule.* If a dollar election is made under this § 1.985–2 for an eligible QBU ("electing QBU"), then the dollar shall be the functional currency of any related person (regardless of when such person became related to the electing QBU) that is an eligible QBU, or any branch of any such related person that is an eligible QBU. For purposes of the preceding sentence, the term "related person" means any person with a relationship defined in section 267 (b) to the electing QBU (or to the United States or foreign person of which the electing QBU is a part). In determining whether two or more corporations are members of the same controlled group under section 267(b)(3), a person is considered to own stock owned directly by such person, stock owned with the application of section 1563(e)(1), and stock owned with the application of section 267(c).

(ii) *Branches of United States and foreign persons.* If a dollar election is made for a QBU branch of any person, each eligible QBU branch of such person shall have the dollar as its functional currency.

(4) *Required adjustments.* If an eligible QBU's functional currency changes due to a dollar election, or due to the conformity requirements of paragraph (d)(3) of this section, such change shall be deemed for purposes of § 1.9B5–4 to be consented to by the Commissioner. No adjustments under section 481(a) shall be required solely because of the change. However, the QBU must make those adjustments required by § 1.985–5T (or any succeeding final regulation).

(5) *Taxable year conformity required.* Generally, the adjustments required by paragraph (d)(4) of this section shall be made for a related person's taxable year—

(i) That includes the date in which the electing QBU made the dollar election if the person was related to such electing QBU at any time during the QBU's taxable year that includes such date, or

(ii) During which the person first becomes related to any electing QBU, in all other cases.

For purposes of this paragraph (d)(5), the date in which the electing QBU makes the dollar election shall be the last day of the electing QBU's taxable year. The district director may permit the related party to make such adjustments beginning one taxable year later if, in the district director's sole judgment, reasonable cause exists for the related party not being able to make the required adjustments for the earlier year.

(6) *Availability of election.* A dollar election may be made by or on behalf of a QBU, or considered made under the conformity rule of paragraph (d)(3), in any year in which the QBU is an eligible QBU. If a dollar election is not made by or on behalf of a QBU for its first taxable year beginning after December 31, 1986 in which it is an eligible QBU, then any dollar election made by or on behalf of the QBU, or considered made under the conformity rules of paragraph (d)(3) of this section, that results in a change in the QBU's functional currency shall be treated as having been made with the consent of the Commissioner. In such a case, however, the taxpayer must make those adjustments required by § 1.985–5T (or any succeeding final regulation).

(7) *Effect of changed circumstances.* Regardless of any change in circumstances (*e.g.*, a currency ceases to qualify as hyperinflationary), a QBU whose functional currency is the dollar under this section may change its functional currency only if the QBU complies with § 1.985–4.

(8) *Examples.* The provisions of this section are illustrated by the following examples.

Example (1). X is a calendar year domestic corporation that in 1987 establishes a branch, A, in Country Z. A's functional currency under section 985(b) (1) and (2) and § 1.985–1 is the "h", the currency of Country Z. The cumulative inflation in Country Z exceeds 100 percent for the thirty-six months prior to January 1987, as measured by the consumer price index of Country Z listed in the monthly issues of the "International Financial Statistics". Accordingly, A is an eligible QBU in 1987 because the h is a hyperinflationary currency. Thus, X may elect the dollar as the functional currency of A for 1987.

Example (2). The facts are the same as in Example (1). X does not elect the dollar as the functional currency of A for 1987. Rather, X elects the dollar as the functional currency of A for 1991, a year A is an eligible QBU. The election constitutes a change in A's functional currency that is made with the consent of the Commissioner. However, A must make the adjustments required under § 1.985–5T (or any succeeding final regulation).

Example (3). X is a domestic corporation that establishes A, an eligible QBU branch. X is wholly owned by domestic corporation Y. Y has an eligible QBU branch, B. Both X and Y are calendar year taxpayers. X makes a dollar election for A in 1987. Thus, A is an electing QBU. X and Y are related persons as defined in section 267(b) (*i.e.*, Y has a relationship under section 267(b)(3) to X, the corporation of which A is a part). Therefore, the dollar election by X for A in 1987 results in B, the eligible QBU branch of Y, also having the dollar as its functional currency for 1987.

Example (4). The facts are the same as in Example (3), except that Y does not have an eligible QBU branch but owns all the stock of C, a calendar year controlled foreign corporation, which is not itself an eligible QBU but which has an eligible QBU branch. D. X and C are related persons as defined in section 267(b) (*i.e.*, C has a relationship under section 267(b)(3) to X, the corporation of which A is a part). Therefore, the dollar election by X for A in 1987 results in D, the eligible QBU branch of C, also having the dollar as its functional currency for 1987.

Example (5). X, whose taxable year ends September 30, is an eligible QBU that does not use the dollar as its functional currency. X is wholly-owned by domestic corporation W. On January 1, 1989, X acquires all the stock of Y, an unrelated eligible QBU that made the dollar election under § 1.985–2. Y is a calendar year taxpayer. After the stock purchase, X and Y are related persons as defined in section 267(b). Under § 1.985–2(d)(3) and (5), the dollar shall be the functional currency of X, any person related to X, and any branch of such related person that is an eligible QBU beginning with the taxable year that includes December 31, 1989. Thus, X must change to the dollar for its taxable year beginning October 1, 1988. However, the district director may allow X to change to the dollar for its taxable year beginning October 1, 1989, provided reasonable cause exists. Those QBUs changing to the dollar as their functional currency as the result of the conformity requirements must make the adjustments required under § 1.985–5T (or any succeeding final regulation).

Example (6). The facts are the same as in Example (5), except that before X purchased the Y stock, X made the dollar election under § 1.985–2 but Y did not use the dollar as its functional currency. Under § 1.985–2(d)(3) and (5) the dollar shall be the functional currency of Y, any person related to Y, and any branch of such related person that is an eligible QBU beginning with the taxable year that includes September 30, 1989. Thus, Y must change to the dollar for its taxable year beginning January 1, 1989. However the district director may allow Y to change to the dollar for its taxable year beginning January 1, 1990, provided reasonable cause exists. Those QBUs changing to the dollar as their functional currency as the result of the conformity requirements must make the adjustments required under § 1.985–5T (or any succeeding final regulation).

§ 1.985–3 United States dollar approximate separate transactions method.

(a) *Scope.* This section describes the United States dollar (dollar) approximate separate transactions method of accounting. Except as provided in § 1.985–2(d)(2)(ii), this method of accounting must be used to compute income or loss or earnings and profits (or deficit in earnings and profits) of a QBU (as defined in section 989(a) of the Code) that has the dollar as its functional currency pursuant to § 1.985–2.

(b) *In general.* Under the dollar approximate separate transactions method of accounting, income or loss or earnings and profits (or deficit in earnings and profits) of a QBU for its taxable year shall be determined in dollars by—

(1) Preparing an income or loss statement from the QBU's books and records (within the meaning of § 1.989(a)–1T(d) or its successor) as recorded in the QBU's hyperinflationary currency (as described in § 1.985–2(b)(1));

(2) Making the adjustments necessary to conform such statement to those United States accounting and tax principles as provided by the appropriate Code section, such as sections 987 and 988 or sections 986 and 964(a);

(3) Translating the amounts of hyperinflationary currency as shown on such adjusted statement into dollars in accordance with paragraph (c) of this section; and

(4) Adjusting the resulting dollar income or loss or earnings and profits (or deficit in earnings and profits) in accordance with paragraph (d) of this section to reflect the amount of currency gain or loss as determined thereunder.

(c) *Translation into United States dollars*—(1) *In general.* Except as provided in paragraphs (c) (2), (3), (4), (5), and (8) of this section, the amounts shown on the income or loss statement, as adjusted under paragraph (b)(2) of this section, shall be translated into dollars at the average exchange rate (as defined in paragraph (c)(6) of this section) for the translation period (as defined in paragraph (c)(7) of this section) to which they relate.

(2) *Cost of goods sold.* The dollar value of cost of goods sold shall equal the sum of the dollar values of beginning inventory and purchases less the dollar value of ending inventory as these amounts are determined under paragraph (c)(3) of this section.

(3) *Beginning inventory, purchases, and closing inventory*—(i) *Beginning inventory.* Amounts representing beginning inventory shall be translated so as to obtain the same amount of dollars which represented such items in the closing inventory balance for the preceding taxable year.

(ii) *Purchases.* Amounts representing items purchased or otherwise first included in inventory during the taxable year shall be translated at the average exchange rate for the translation period in which the cost of such items was incurred.

(iii) *Closing inventory*—(A) *In general.* Amounts representing items included in the closing inventory balance shall be translated at the average exchange rate for the translation period in which the cost of such items was incurred. However, if amounts representing items included in closing inventory balance are either valued at market or written down to market value, they shall be translated at the exchange rate existing on the last day of the taxable year. For purposes of determining lower of cost or market, items of inventory included in the closing inventory balance shall be translated into dollars at the average exchange rate for the translation period in which the cost of such items was incurred and compared with market as determined in the QBU's hyperinflationary currency translated into dollars at the exchange rate existing on the last day of the taxable year.

(B) *Determination of translation period.* The method used to determine the translation period of amounts representing items of closing inventory for purposes of paragraph (c)(2)(iii)(A) of this section may be based upon reasonable approximations and averages, including rates of turnover, provided the method is consistently used from year to year.

(4) *Depreciation, depletion, and amortization.* Amounts representing allowances for depreciation, depletion, or amortization shall be translated at the average exchange rate for the translation period in which the cost of the underlying asset was incurred.

(5) *Prepaid expenses or income.* Amounts representing expense or income paid or received in a prior taxable year shall be translated at the average exchange rate for the translation period during which they were paid or received.

(6) *Average exchange rate.* The average exchange rate for any translation period is the average of the daily exchange rates (determined by reference to a qualified source of exchange rates within the meaning of § 1.964–1(d)(5)), excluding weekends, holidays and any other nonbusiness days within the translation period, or if these rates are unavailable any other reasonable rate consistently applied that clearly reflects income.

(7) *Translation period*—(i) *In general.* Except as provided in paragraph (c)(3)(iii)(B) and paragraph (c)(7)(ii) of this section, a translation period shall be each month within a QBU's taxable year.

(ii) *Election.* A QBU may elect to divide its taxable year into translation periods that are less than a month. The election is made if the QBU computes its income or loss or earnings and profits (or deficit in earnings and profits) using translation periods that are less than one month. The translation period

elected may not be changed without the consent of the district director.

(8) *Dollar transactions.* Notwithstanding any other provisions of this section, no currency gain or loss is permitted with respect to dollar transactions since the dollar is the functional currency of the QBU. Thus, the amount of any payment or receipt of dollars shall be reflected in the income or loss statement by the amount of such dollars. Also, any transaction in which the amount that a QBU is entitled to receive (or is required to pay) by reason of such transaction is either denominated in terms of the dollar or is determined by reference to the value of the dollar, must be computed transaction-by-transaction. For example, if a foreign corporation lends 20 LC when 20 LC=$20 and is entitled to receive the LC equivalent of $20 at maturity plus a market rate of interest, the loan is a dollar transaction. Similarly, this paragraph applies to any transaction that is determined to be a dollar transaction under section 988.

(9) *Examples.* The provisions of this paragraph (c) are illustrated by the following examples.

Example (1). S is an accrual basis eligible QBU that makes a dollar election for its first taxable year beginning in 1987. S's hyperinflationary currency is the "h". During 1987 S received 100 dollars attributable to sales. Because this is a dollar transaction under paragraph (c)(8) of this section, S's income or loss for 1987 shall reflect the 100 dollars (not the hyperinflationary value of such dollars when accrued). If 120 British pounds were received rather than 100 dollars, S's income or loss would reflect the "h" amount (as determined under section 988) of the 120 British pounds translated into dollars at the average rate for the appropriate translation period.

Example (2). S is an accrual basis eligible QBU that makes the dollar election for its first taxable year beginning in 1987. S's hyperinflationary currency is the "h". During 1987, S's sales amounted to 240,000,000h, its currently deductible expenses were 26,000,000h, and its total inventory purchases amounted to 100,000,000h. During January and February of 1987, S purchased depreciable assets for 80,000,000h and was allowed depreciation of 4,000,000h. At the end of 1987, S's closing inventory was 23,000,000h. No election to use a translation period other than the month is made, S had no transactions described in paragraph (c)(8) of this section, and S's closing inventory was computed on the first-in, first-out inventory method. S's adjusted income or loss statement for 1987 is translated into dollars as follows:

	Hyperinflationary currency	Exchange rate	United States Dollars
Sales:			
(Jan–Feb)	10,000,000h	[1]20:1	$500,000
(Mar–Apr)	20,000,000	[1]21:1	952,381
(May–Jun)	50,000,000	[1]22:1	2,272,727
(July)	50,000,000	23:1	2,173,913
(August)	20,000,000	26:1	769,231
(Sept.)	20,000,000	28:1	714,286
(Oct.)	20,000,000	29:1	689,655
(Nov.)	20,000,000	30:1	666,667
(Dec.)	30,000,000	31:1	967,742
(Total)	240,000,000h		$9,706,602
Cost of Goods Sold			
Opening Inventory Purchases:			
(Jan–Feb)	15,000,000h	[1]20:1	$750,000
(Mar–Apr)	10,000,000	[1]21:1	476,190
(May–June)	30,000,000	[1]22:1	1,363,636
(July)	20,000,000	23:1	869,565
(August)	10,000,000	26:1	384,615
(Sept.)	5,000,000	28:1	178,571
(Oct.)	5,000,000	29:1	172,414
(Nov.)	2,500,000	30:1	83,333
(Dec.)	2,500,000	31:1	80,645
Less Closing Inventory	(23,000,000)	([2])	(822,655)
Total	77,000,000h		$3,536,314
Non-Capitalized Exp.:			
(Jan–Feb)	4,000,000h	[1]20:1	$200,000
(Mar–Apr)	2,500,000	[1]21:1	119,048
(May–June)	2,500,000	[1]22:1	113,636
(July)	2,000,000	23:1	86,957
(August)	3,000,000	26:1	115,385
(Sept.)	3,000,000	28:1	107,143
(Oct.)	2,000,000	29:1	68,966
(Nov.)	3,000,000	30:1	100,000
(Dec.)	4,000,000	31:1	129,032
Total	26,000,000h		$1,040,167
Deprec	4,000,000h	20:1	$200,000
Total Cost & Exp	107,000,000h		$4,776,481
Operating Profit	133,000,000h		$4,930,121

[1] The average exchange rate for each month is the same.

[2] Since S uses the first-in, first-out inventory method, the closing inventory is assumed in normal circumstances to consist of purchases made during the most recent translation period as follows:

	Hyperinflationary Currency	Exchange Rate	United States Dollars
December	2,500,000h	31:1	$80,645
November	2,500,000	30:1	83,333

	Hyperinflationary Currency	Exchange Rate	United States Dollars
October	5,000,000	29:1	172,414
September	5,000,000	28:1	178,571
August	8,000,000	26:1	307,692
Total	23,000,000h		$822,655

(d) *Currency gain or loss*—(1) *In general.* Currency gain or loss determined in accordance with paragraph (d)(2) of this section shall increase or decrease the amount of dollar income or loss or earnings and profits (or deficit in earnings and profits) as determined pursuant to paragraphs (a), (b), and (c) of this section. For the manner in which the currency gain or loss is allocated against Subpart F income, *see* § 1.954–2T(g)(2) or its successor. For the manner in which the currency gain or loss is treated under section 904(d), *see* § 1.904–4(j).

(2) *Determination of currency gain or loss.* Currency gain or loss of a QBU shall be the amount which equals—

(i) The net worth for the taxable year as determined under paragraph (d)(4) of this section; plus

(ii) The dollar amount of any item that decreased net worth for the taxable year but does not generally affect income or loss or earnings and profits (or deficit in earnings and profits) for the taxable year ("additions"), such as remittances, dividends, and returns of capital. Furthermore, foreign income taxes paid by a QBU branch elected to be credited under section 901 shall also be treated as an addition. The amount of a remittance, dividend, return of capital, or foreign tax that is paid by a QBU branch and is elected to be credited under section 901, shall be translated on the date the amount is paid or accrued. The amount of any other additions shall be translated by applying the principles of paragraph (c) of this section; minus

(iii) The net worth for the preceding taxable year as determined under paragraph (d)(4) of this section; minus

(iv) The amount of dollar income or earnings and profits (or plus the amount of any dollar loss or deficit in earnings and profits) as determined for the taxable year pursuant to paragraph (b)(1) through (3) of this section; minus

(v) The dollar amount of any item that increased net worth for the taxable year but does not generally affect income or loss or earnings and profits (or deficit in earnings and profits) ("subtractions"), such as capital contributions. The amount of a capital contribution shall be translated on the date the contribution is made. The amount of any other subtractions shall be translated by applying the principles of paragraph (c) of this section.

(3) *Character.* The amount of currency gain or loss determined under paragraph (d)(2) of this section shall be ordinary income or loss.

(4) *Net worth.* Net worth for any taxable year shall be the dollar amount equal to the aggregate dollar amount representing assets on the balance sheet (as adjusted and translated under this paragraph (d)(4) (ii) and (iii)) less the aggregate dollar amount representing liabilities on the balance sheet (as adjusted and translated under this paragraph (d)(4) (ii) and (iii)). Net worth shall be determined by first—

(i) Preparing a balance sheet as of the end of such year from the QBU's books and records (within the meaning of section 989 (a)) as recorded in the QBU's hyperinflationary currency;

(ii) Making adjustments necessary to conform such balance sheet to United States accounting and tax principles as provided by the appropriate Code section, such as sections 987 and 988 or sections 986 and 964(a); and

(iii) Translating the asset and liability amounts shown on the balance sheet into United States dollars in accordance with paragraph (d)(5) of this section.

(5) *Translation of balance sheet.* Asset and liability amounts shown on the balance sheet as adjusted pursuant to paragraph (d)(4)(ii) of this section shall be translated into dollars as follows:

(i) *Inventory.* Amounts representing items of inventory included in the closing inventory balance shall be translated in accordance with paragraph (c)(3)(iii) of this section.

(ii) *Bad debt reserves.* Amounts representing bad debt reserves shall be translated at the average exchange rate for the last translation period of the taxable year.

(iii) *Prepaid income or expense.* Amounts representing expenses or income paid or received in a prior taxable year shall be translated in accordance with paragraph (c)(5) of this section.

(iv) *Hyperinflationary cash.* Amounts representing hyperinflationary cash on hand or in a checking or savings account shall be translated at the average exchange rate for the last translation period of the taxable year.

(v) *Certain assets*—(A) *In general.* Amounts representing plant, real property, equipment, goodwill, patents, and other intangibles shall be translated at the average exchange rate for the translation period in which the cost of the asset was incurred.

(B) *Adjustment to certain assets.* Amounts representing depreciation, depletion, and amortization reserves shall be translated in accordance with paragraph (c)(4) of this section.

(vi) *Long-term liabilities.* Amounts representing long-term liabilities, including any amounts of a long-term liability that become short-term, shall be translated at the average exchange rate for the translation period in which incurred.

(vii) *Accrued taxes.* Amounts representing an accrued tax shall be translated at the average exchange rate for the translation period during which the tax was accrued.

(viii) *Other assets and liabilities*—(A) *In general.* Except as provided in paragraph (d)(5)(viii)(B) of this section, amounts representing assets and liabilities other than those specifically described in paragraphs (d)(5) (i) through (vii) of this section shall be translated at the average exchange rate for the translation period in which the cost of the asset was incurred or for the translation period in which the amount of the liability was incurred. For purposes of the preceding sentence, the method used to determine the translation period in which the cost of an asset or amount of a liability was incurred may be based upon reasonable approximations and averages, including rates of turnover and aging of accounts, provided the method is consistently used from year to year.

(B) *Accounts payable.* Amounts representing accounts payable shall be translated at the average rate for the last translation period of the taxable year unless the taxpayer establishes to the satisfaction of the district director that any such amounts relate to a different translation period. In such a case, the average exchange rate for that translation period shall apply.

(6) *Dollar transactions.* Notwithstanding any other provisions of

this paragraph (d), where the amount representing an item shown on the balance sheet reflects a transaction described in paragraph (c)(8) of this section, such transaction shall be taken into account in accordance with that paragraph.

(7) *Example.* The provisions of this paragraph (d) are illustrated by the following example.

Example. S, an accrual method calendar year foreign corporation, makes the dollar election. S's hyperinflationary currency is the "h". S's net worth at December 31, 1987 was $3,246,495. For 1988, S's operating profit is 81,340,000h, or $2,038,200. S made a 5,000,000h distribution in April and December of 1988. S's translation period is the month. None of S's assets or liabilities reflect a transaction described in paragraph (c)(8) of this section. The average exchange rate for each month in 1988 is as follows:

January	32h:$1
February–March	33:1
April–May	34:1
June	35:1
July	36:1
August–September	37:1
October	38:1
November	39:1
December	40:1

At the end of 1988, S's assets and liabilities, as adjusted and translated pursuant to this paragraph (d)(4) (ii) and (iii), are as follows:

	Hyperinflationary	Exchange rate	U.S. Dollar
Hyperinflationary cash on hand	40,000h	40:1	$1,000
Checking account	400,000	40:1	10,000
Accounts Receivable:			
30 Day Accounts	20,000,000	[1] 40:1	500,000
60 Day Accounts	25,000,000	39:1	641,025
Inventory	65,000,000	([2])	2,500,000
Fixed assets:			
Property	90,000,000	[2] 27:1	3,333,333
Plant	190,000,000	([3])	6,785,714
Accumulated Depreciation	(600,000)	([3])	(21,428)
Equipment	10,000,000	([4])	340,000
Accumulated Depreciation	(400,000)	([4])	(13,333)
Common Stock:			
Stock A	500,000	34:1	14,706
Stock B	400,000	26:1	15,385
Preferred Stock	1,000,000	32:1	31,250
C.D.s	5,000,000	39:1	128,205
Total Assets	406,340,000		14,265,857
Accounts Payable	35,000,000	[5] 40:1	875,000
Long-term liabilities:			
Liability A	150,000,000	27:1	5,555,556
Liability B	80,000,000	29:1	2,758,621
Liability C	30,000,000	36:1	833,333
Total Liabilities	295,000,000h		10,022,510

[1] S ages its accounts receivable and groups them into two categories—those outstanding for 30 days and those outstanding for 60 days.
[2] Translated the same as closing inventory under paragraph (c)(3)(iii).
[3] The cost of S's plant was incurred in several translation periods. Therefore, the dollar cost reflects several translation rates.
[4] S has a variety of equipment. Therefore, S's dollar basis represents the sum of the hyperinflationary cost of each, translated according to the average exchange rate for the translation period incurred.
[5] S has no accounts payable outstanding for greater than 30 days.

The currency loss of S for 1988 is computed as follows:

Net worth—1988	$4,243,347
Plus—1988 Dividends:	
April	[6] $149,254
December	[6] 126,582
Total	275,836
Less—Net worth—1987	$3,246,495
Operating Profit—1988	2,038,200
Total	5,284,695
Exchange Loss	($765,512)

Note: Thus, total profit = $2,038,200 − $765,512 = $1,272,688.

[6] The exchange rates on the date of the April and December dividends were 33.5h:$1 and 39.5h:$1 respectively.

§ 1.985–4 Method of Accounting.

(a) *Adoption of election.* The adoption of, or the election to use, a functional currency shall be treated as a method of accounting. The functional currency shall be used for the year of adoption (or election) and for all subsequent taxable years unless permission to change is granted, or considered to be granted under § 1.985–2, by the Commissioner.

(b) *Condition for changing functional currencies.* Generally, permission to change functional currencies shall not be granted unless significant changes in the facts and circumstances of the QBU's economic environment occur. If the determination of the functional currency of the QBU for purposes of United States generally accepted accounting principles (GAAP) is based on facts and circumstances substantially similar to those set forth in § 1.985–1(c)(2), then ordinarily the Commissioner will grant a taxpayer's request to change its functional currency (or the functional currency of its branch that is a QBU) to a new functional currency only if the taxpayer (or its QBU) also changes to the new functional currency for purposes of GAAP. However, permission to change will not necessarily be granted merely because the new functional currency will conform to the taxpayer's GAAP functional currency.

(c) *Relationship to certain other sections of the Code.* Nothing in this section shall be construed to override the provisions of any other sections of the Code of regulations that require the use of consistent accounting methods. Such provisions must be independently satisfied separate and apart from the identification of a functional currency. For instance, while separate geographical divisions of a taxpayer's trade or business may have different functional currencies, such geographical divisions may nevertheless be required to consistently use other methods of accounting.

§ 1.985–5T Adjustments required upon change in functional currency (Temporary regulations).

(a) *In general.* A QBU that changes from one functional currency (old functional currency) to another functional currency (new functional currency) shall make the adjustments set forth in the 3-step procedure described in paragraphs (b) through (e) of this section. The adjustments shall be made on the last day of the taxable year ending before the year of change as defined in § 1.481–1(a)(1). Except as provided in § 1.985–6T, QBU with a functional currency for its first taxable year beginning in 1987 that is different from the currency in which it had kept its books and records for United States accounting and tax accounting purposes for its prior taxable year shall apply the principles of this § 1.985–5T for purposes of computing the relevant functional currency items, such as earnings and profits, basis of an asset, and amount of a liability, as of the first day of a taxpayer's first taxable year beginning in 1987.

(b) *Step 1—Taking into account exchange gain or loss on certain section 988 transactions.* The QBU shall recognize or otherwise take into account for all purposes of the Code the amount of any unrealized exchange gain or loss attributable to a section 988 transaction (as defined in section 988(c)(1) (A), (B), and (C)) that, after applying section 988(d), is denominated in terms of or determined by reference to the new functional currency. The amount of such gain or loss shall be determined without regard to the limitations set forth in section 988(b) (*i.e.*, regardless of whether there is any market gain or loss derived on the transaction as a whole).

(c) *Step 2—Determining the new functional currency basis of property and the new functional currency amount of liabilities and any other relevant items.* The new functional currency adjusted basis of property and the new functional currency amount of liabilities and any other relevant items (*e.g.*, items described in section 988(c)(1)(B)(iii)) shall equal the product of the amount of the old functional currency adjusted basis or amount multiplied by the spot new functional currency/old functional currency exchange rate.

(d) *Step 3A—Additional adjustments that are necessary when a branch changes functional currency*—(1) *Branch changing to a functional currency other than the taxpayer's functional currency.* If a QBU of a taxpayer (*i.e.* a branch) changes to a functional currency other than the taxpayer's functional currency, the branch shall make the adjustments set forth in either subparagraph (i) or (ii) for purposes of section 987.

(i) *Where prior to the change the branch and taxpayer had different functional currencies.* Where the branch and the taxpayer had different functional currencies prior to the change, the branch's new functional currency equity pool (computed under the principles of § 1.987–1T(b)(1), 53 Fed. Reg. 32384 (1988)) shall equal the product of the old functional currency amount of the equity pool multiplied by the spot new functional currency/old functional currency exchange rate.

(ii) *Where prior to the change the branch and taxpayer had the same functional currency.* Where the branch and the taxpayer had the same functional currency prior to the change, the branch's equity basis pool (computed under the principles of § 1.987–1T(b)(2), 53 FR 32384 (1988)) shall equal the difference between the branch's total old functional currency basis of its assets and its total old functional currency amount of its liabilities. The branch's equity pool shall equal the product of the equity basis pool multiplied by the spot new functional currency/old functional currency exchange rate.

(2) *Branch changing to the taxpayer's functional currency.* If a branch changes to the taxpayer's functional currency, the branch shall be treated as if it terminated. In such a case, the taxpayer shall realize gain or loss attributable to the branch's equity pool under the principles of section 987. This gain or loss is not subject to section 481.

(e) *Step 3B—Additional adjustments that are necessary when a taxpayer changes functional currency*—(1) *Corporations.* The amount of a corporation's new functional currency earnings and profits and the amount of its new functional currency paid-in capital shall equal the product of the old functional currency amounts of such items multiplied by the spot new functional currency/old functional currency exchange rate.

(2) *Collateral consequences to a United States shareholder of a corporation changing to the United States dollar as its functional currency.* A United States shareholder (within the meaning of section 951(b)) of a controlled foreign corporation (within the meaning of section 957) changing to the United States dollar (dollar) as its functional currency shall recognize foreign currency gain or loss computed under section 986(c) as if all previously taxed earnings and profits, if any, were distributed immediately prior to the change and will also recognize gain or loss attributable to the corporation's paid-in capital to the extent provided, if any, under section 367(b) or future final regulations under section 985. This gain or loss is not subject to section 481.

(3) *Taxpayers that are not corporations.* (Reserved)

(4) *Adjustments necessary for a branch of a taxpayer changing functional currencies*—(i) *Taxpayer changing to a functional currency other than the branch's functional currency.* If a taxpayer changes to a functional currency other than the functional currency of a branch of the taxpayer, the branch shall make the adjustments set forth in paragraph (d)(1)(i) of this section if the taxpayer's old functional currency was different from the branch's functional currency, or make the adjustments set forth in paragraph (d)(1)(ii) of this section if the taxpayer's old functional currency was the same as the branch's functional currency.

(ii) *Taxpayer changing to the same functional currency as the branch.* If a taxpayer changes to the same functional currency as a branch of the taxpayer, the taxpayer shall realize gain or loss as set forth in paragraph (d)(2) of this section.

(f) *Examples.* The provisions of this section are illustrated by the following examples.

Example (1). S, a calendar year foreign corporation, is wholly owned by domestic corporation P. The Commissioner granted permission to change S's functional currency from the LC to the FC beginning January 1, 1990. The LC/FC exchange rate on December 31, 1989, is 1 LC/2 FC. The following shows how S must convert the items on its balance sheet from the LC to the FC.

	LC1:2	FC
Assets:		
Cash on hand	40,000	80,000
Accounts receivable	10,000	20,000
Inventory	100,000	200,000
100,000 FC bond (100,000 LC historical basis)	[1] 50,000	100,000

	LC1:2	FC
Fixed assets:		
Property	200,000	400,000
Plant	500,000	1,000,000
Accumulated depreciation	(200,000)	(400,000)
Equipment	1,000,000	2,000,000
Accumulated depreciation	(400,000)	(8,000,000)
Total assets	1,300,000	2,600,000
Liabilities:		
Accounts payable	50,000	100,000
Long-term liabilities	400,000	800,000
Paid-in-capital	800,000	1,600,000
Retained earnings	[2] 50,000	100,000
Total liabilities and equity	1,300,000	2,600,000

[1] Under § 1.985-5T(b), S will recognize a 50,000 LC loss (100,000 LC basis—50,000 LC value) on the bond resulting from the change in functional currency. Thus, immediately before the change, S's basis in the FC bond (taking into account the loss) is 50,000 LC.
[2] The amount of S's LC retained earnings reflects the 50,000 LC loss on the bond.

Example (2). P, a domestic corporation, operates a foreign branch, S. The Commissioner granted permission to change S's functional currency from the LC to the FC beginning January 1, 1990. As of December 31, 1989, S's equity pool was 2,000 LC and its equity basis pool was $4,000. The LC/FC exchange rate on December 31, 1989 is 1 LC/2 FC. On January 1, 1990, the new functional currency amount of S's equity pool is 4,000 FC. The equity basis pool is not affected.

§ 1.985-6T Transition rules for a QBU that uses the dollar approximate separate transactions method for its first taxable year beginning in 1987 (Temporary regulations).

(a) *In general.* This section sets forth transition rules for those QBUs that use the dollar approximate separate transactions method set forth in § 1.985-3 or § 1.985-3T for their first taxable year beginning in 1987 ("net worth" QBUs). In order for a net worth QBU to apply the dollar approximate separate transactions method of accounting for its first taxable year beginning in 1987, the QBU must determine the United States dollar (dollar) and hyperinflationary currency basis of its assets and the dollar and hyperinflationary currency amount of the QBU's liabilities that were acquired or incurred in taxable years beginning before January 1, 1987. In addition, the QBU must also determine its net worth including its retained earnings at the end of the QBU's last taxable year beginning before January 1, 1987. This section provides rules for controlled foreign corporations (as defined in section 957), noncontrolled foreign corporations, and new worth and profit and loss branches of United States persons that must make these determinations.

(b) *Certain controlled foreign corporations.* If a net worth QBU was a controlled foreign corporation for its last taxable year beginning before January 1, 1987, and had a significant event as described in § 1.964-1(c)(6) in a taxable year beginning before January 1, 1987, then the rules of this paragraph (b) shall apply.

(1) *Basis in assets and amount of liabilities.* The hyperinflationary currency adjusted basis in the QBU's assets and the hyperinflationary currency amount of the QBU's liabilities acquired or incurred by the QBU in a taxable year beginning before January 1, 1987, shall be the basis or the amount as determined under § 1.964-1(e) prior to translation under § 1.964-1(e)(4). The dollar adjusted basis in such assets and the dollar amount of such liabilities shall be the adjusted basis or the amount as determined under the rules of § 1.964-1(e) after translation under § 1.964-1(e)(4).

(2) *Retained earnings.* The dollar amount of the QBU's retained earnings at the end of its last taxable year beginning before January 1, 1987, shall be the dollar amount determined under § 1.964-1(e)(3).

(c) *All other foreign corporations.* If a foreign corporation is a net worth QBU not described in paragraph (b) of this section, then

(1) The hyperinflationary currency and dollar adjusted basis in the QBU's assets acquired in taxable years beginning before January 1, 1987,

(2) The hyperinflationary currency and dollar amount of the QBU's liabilities acquired or incurred in taxable years beginning before January 1, 1987, and

(3) The dollar amount of the QBU's net worth including its retained earnings at the end of its last taxable year beginning before January 1, 1987,

shall be determined by applying the principles of § 1.985-3T or § 1.985-3.

(d) *Net worth branch.* If a net worth QBU is a branch of a United States person and the QBU used a net worth method of accounting for its last taxable year beginning before January 1, 1987, then the rules of this paragraph (d) shall apply. A net worth method of accounting is any method of accounting under which the taxpayer calculates the taxable income of a QBU based on the net change in the dollar value of the QBU's equity (assets less liabilities) during the course of a taxable year, taking into account any remittances made during the year.

(1) *Basis in assets and amount of liabilities*—(i) *Hyperinflationary amounts.* For the first taxable year beginning in 1987, the hyperinflationary currency adjusted basis of a QBU's assets or the hyperinflationary currency amounts of its liabilities acquired or incurred in a taxable year beginning before January 1, 1987 is the hyperinflationary currency basis or amount at the date when acquired or incurred according to United States generally accepted accounting and tax accounting principles. The hyperinflationary currency adjusted basis of an asset or hyperinflationary currency amount of a liability for which a hyperinflationary currency basis or amount was not determined at such date shall be that hyperinflationary currency amount which is determined by using the appropriate spot exchange rate on the date when the asset or amount of the liability was acquired or incurred, as adjusted according to United States generally accepted accounting and tax accounting principles.

(ii) *Dollar amount.* For the first taxable year beginning in 1987, the dollar adjusted basis of the QBU's assets and the amounts of its liabilities shall be those amounts reflected on the QBU's dollar books and records at the end of the taxpayer's last taxable year

beginning before January 1, 1987, after adjusting the books and records according to United States generally accepted accounting and tax accounting principles.

(2) *Ending net worth.* The dollar amount of the QBU's net worth at the end of its last taxable year beginning before January 1, 1987, shall equal the QBU's net worth at that date as determined under paragraph (d)(1)(ii) of this section.

(e) *Profit and loss branch.* If a net worth QBU is a branch of a United States person and the QBU used a profit and loss method of accounting for its last taxable year beginning before January 1, 1987, then the QBU shall apply the transition rules of § 1.987–1T (as promulgated in 53 FR 32384 (1988)) or its successor provision in order to establish the branch's pre-87 equity and dollar equity and the branch's hyperinflationary currency basis of its assets and hyperinflationary currency amounts of its liabilities. A profit and loss method of accounting is any method of accounting under which the taxpayer calculates the profits of a QBU by computing the QBU's profits in its functional currency and translating the net result into dollars. *See* § 1.985–5T (or any succeeding final regulation) for the further adjustments that are necessary when a QBU changes functional currencies.

Par. 4. New § 1.989(b)–1T is added at the appropriate place to read as follows:

§ 1.989(b)–1T Definition of weighted average exchange rate (Temporary regulation).

For purposes of section 989(b) (3) and (4), the term "weighted average exchange rate" means the simple average of the daily exchange rates (determined by reference to a qualified source of exchange rates within the meaning of § 1.964–1(d)(5)), excluding weekends, holidays and any other nonbusiness days for the taxable year.

OMB Control Numbers Under the Paperwork Reduction Act (26 CFR Part 602)

Par. 5. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by removing from the table "§ 1.985–2T * * * 1545–1051" and by adding in its place in the table "§ 1.985–2 * * * 1545–1051".

Dated: August 10, 1989.

Fred T. Goldberg,

Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–21650 Filed 9–19–89; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 602

[T.D. 8264]

RIN 1545–AK26

Temporary Regulations Under Section 383 of the Internal Revenue Code of 1986; Use of Pre-Change Attributes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the use of certain corporate tax attributes under section 383 of the Internal Revenue Code of 1986 (the "Code") that are attributable to the period preceding an ownership change of the corporation. Section 383 of the Code was amended by the Tax Reform Act of 1986 (the "1986 Act"). The temporary regulations provide guidance under section 383 relating to the manner and method of absorbing the section 382 limitation with respect to certain capital losses and excess credits after there has been an ownership change of a corporation within the meaning of section 382. The temporary regulations also contain amendments to the temporary regulations under section 382, which was amended by the 1986 Act, the Revenue Act of 1987 (the "1987 Act"), and by the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act"). The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**

EFFECTIVE DATE: The temporary regulations are effective as of September 19, 1989, and generally are applicable to any ownership change within the meaning of section 382 occurring after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Lori J. Jones of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:CORP:1) or telephone (202) 566–3205 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in this regulation have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–0123. The estimated average annual burden associated with the collections of information in these regulations is 18 minutes per respondent.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

For further information concerning these collections of information, and where to submit comments on these collections of information, the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register.**

Background

This document provides temporary regulations to be added to part 1 of title 26 of the Code of Federal Regulations ("CFR") under sections 382 and 383 of the Code. The temporary regulations provide guidance under sections 382 and 383 relating to the manner and method of absorbing the section 382 limitation with respect to certain capital losses and excess credits after there has been an ownership change of a corporation within the meaning of section 382. Sections 382 and 383 were amended by section 621 of the 1986 Act (Pub. L. No. 99–514; 100 Stat. 2085). Section 382 was further amended by section 10225 of the 1987 Act (Pub. L. No. 100–203; 101 Stat. 1330–413) and by sections 1006, 4012 and 5077 of the 1988 Act (Pub. L. No. 100–647). The temporary regulations also contain amendments to the temporary regulations under section 382. Sections 1.382–1T and 1.382–2T were added to CFR by T.D. 8149, published in the **Federal Register** on August 11, 1987 (52 FR 29668).

Explanation of Provisions

(a) Overview of Section 382

Under section 382, as amended, if an ownership change occurs with respect to a "loss corporation" (as defined in section 382 and the regulations thereunder), the amount of the loss corporation's taxable income for a post-change taxable year that may be offset by the net operating losses of the loss corporation arising before the ownership change is limited by an amount known as the "section 382 limitation." The section 382 limitation also applies to limit the use of certain built-in losses (whether capital or ordinary in character) recognized by the loss corporation after an ownership change.

The section 382 limitation for a taxable year of a loss corporation after an ownership change (a "new loss corporation") is generally equal to the fair market value of its stock immediately before the ownership change multiplied by a rate of return published in the Internal Revenue Bulletin (the "long-term tax exempt rate"). See generally sections 382 (b), (e), and (f). This limitation for a taxable year may be increased by certain items, such as an unused limitation for a prior taxable year or certain built-in gains recognized during the taxable year. See, for example, sections 382 (b)(2) and (h).

In general, an ownership change involves an increase of more than 50 percentage points in stock ownership by 5-percent shareholders during the testing period (usually the three year period ending on the date on which a transaction is tested for an ownership change). See generally section 382(g) (relating to ownership change), section 382(i) (relating to testing period), and § 1.382–2T (temporary regulations relating to ownership changes).

(b) Amendments to § 1.382–2T

The definition of "loss corporation" set forth in § 1.382–2T(f)(1) is amended to include a corporation which (1) is entitled to use a capital loss carryover, excess foreign taxes carried over under section 904(c), a carryforward of a general business credit under section 39, or a prior year's unused minimum tax credit under section 53; or (2) for a taxable year in which certain sales or other transactions relating to its stock (or options to acquire its stock) occur has a net capital loss, excess foreign taxes under section 904(c), unused general business credits under section 38, or an unused minimum tax credit under section 53. The definition of "pre-change loss" in § 1.382–2T(f)(22) is expanded to include "pre-change capital losses" (as defined in §§ 1.383–1T(c)(2) (i) and (ii)) and "pre-change credits" (as defined in § 1.383–1T(c)(3)).

The reporting and recordkeeping requirements set forth in §§ 1.382–2T(a)(2) (ii) and (iii) are applicable with respect to any corporation that is a "loss corporation" under the amended definition of that term. Thus, for example, loss corporations entitled to use a capital loss carryover, a carryover of excess foreign taxes under section 904(c), a carryforward of a general business credit under section 39, or with an unused minimum tax credit under section 53 are subject to the reporting and recordkeeping requirements of §§ 1.382–2T(a)(2) (ii) and (iii). A special rule provides, however, that an information statement described in § 1.382–2T(a)(2)(ii) that would be required to be filed solely by reason of the loss corporation having pre-change capital losses or pre-change credits is not required to be filed with respect to any taxable year ("prior taxable year") for which: (1) the due date (including extensions) of the income tax return of the loss corporation is on or before November 20, 1989 or (2) the income tax return is filed on or before October 10, 1989. Under a transitional rule, those corporations which are loss corporations for any taxable year ending in 1987, 1988, or 1989 solely by reason of having pre-change capital losses or pre-change credits are required to report the information specified in §§ 1.382–2T(a)(2)(ii) (A) and (B) (relating to certain testing dates) for taxable years ending on or after May 6, 1986 for which it was a loss corporation, excluding information reported with a previous information statement. The transitional rule also requires such loss corporations to state whether and to what extent pre-change capital losses or pre-change credits utilized in those taxable years to which the section 382 limitation applied exceeded the amount permitted under the regulations under section 383 adopted by this document. The transitional rule shall only be applicable to information statements filed with the 1988 and 1989 income tax returns.

The regulations also are amended to provide that the information statement prescribed by § 1.382–2T(a)(2)(ii) is required to be filed for a taxable year only if certain sales or other transactions relating to the loss corporation's stock (or options to acquire its stock) occur during the year.

Sections 1.382–2T(f)(18) (ii)(C) and (iii)(C), and § 1.382–2T(h)(4)(ix) provide rules that apply if "pre-change losses" are considered to be de minimis. As a result of the change in the definition of "pre-change loss," pre-change capital losses and pre-change credits must be taken into account in determining whether such losses are de minimis.

(c) Section 383

Under the regulations promulgated pursuant to section 383, if an ownership change occurs with respect to a loss corporation, the section 382 limitation for a post-change year also applies to limit the amount of capital gain or tax liability that may be offset, respectively, by capital losses and excess credits of the loss corporation that are attributable to the periods ending on or before the date of the ownership change. Tax attributes that are attributable to the period ending with the ownership change ("pre-change tax attributes") and that are affected by the section 382 limitation thus include any net operating loss carryovers, net unrealized built-in losses, capital loss carryovers, excess foreign taxes carried over under section 904(c), unused general business credits carried over under section 39, and unused minimum tax credits under section 53. For purposes of section 383 and these temporary regulations, the rules and principles of section 382 and the regulations thereunder (including the meaning and use of terms set forth in section 382 and § 1.382–2T) are applicable, except that appropriate account shall be made of the fact that section 383 and these temporary regulations apply to certain capital losses and certain enumerated credits.

The section 382 limitation for a post-change year limits the extent to which pre-change tax attributes that are otherwise allowable may be used in a post-change year. The ordering rules under the temporary regulations provide that the section 382 limitation applicable for any post-change year is absorbed in sequential order, as follows: (1) Built-in capital losses recognized during such year, (2) capital loss carryovers, (3) built-in ordinary losses recognized during such year, (4) net operating loss carryforward, (5) excess foreign taxes carried over under section 904(c), (6) unused general business credits carried over under section 39, and (7) unused minimum tax credits under section 53. These ordering rules follow the ordering rules of the Code which, in the absence of sections 382 and 383, generally would apply with respect to the use of the pre-change tax attributes of the loss corporation.

The "pre-change losses" (excluding pre-change credits) absorb the section 382 limitation on a dollar-for-dollar basis as the pre-change losses are utilized. Because excess credits offset tax liability rather than taxable income,

however, section 383 prescribes that the section 382 limitation which applies to limit the amount of taxable income that may be offset by deductions arising from pre-change losses must be converted to a limitation of equivalent value (the "section 383 credit limitation") for the purpose of determining the amount of tax liability that may be offset by pre-change credits. Under the regulations, the section 383 credit limitation is defined as the amount by which such corporation's regular tax liability would be reduced if it its taxable income for the year were reduced by the amount of its section 382 limitation remaining after taking into account any reduction in the section 382 limitation for the post-change year as the result of the loss corporation's use of pre-change losses, other than pre-change credits (the "unabsorbed section 382 limitation"). The section 383 credit limitation thus is equal to the excess of (1) the loss corporation's regular tax liability for the taxable year, over (2) the amount of such liability after allowing as an additional deduction an amount equal to the unabsorbed section 382 limitation for the year.

After all available pre-change losses (including pre-change credits) are applied against the section 382 limitation and the section 383 credit limitation, the amount, if any, of the unused section 382 limitation that is carried over to the next taxable year must be computed. This computation requires that each dollar of regular tax liability that is offset by a pre-change credit be "grossed-up" (*i.e.*, divided by the effective marginal rate at which that dollar of tax was imposed) to determine the amount of taxable income that, in effect, was offset by the pre-change credit. The sum of these amounts for the taxable year is then subtracted from the unabsorbed section 382 limitation and the balance, if any, is the unused section 382 limitation that carries over to the next taxable year under section 382(b)(2). In order to determine the effective marginal tax rate of the loss corporation, the "gross-up" computation must take into account those circumstances where different rates of tax or different bracket amounts are applicable. For example, in the case of a loss corporation that is a component member of a controlled group of corporations within the meaning of section 1563(a), the limitations imposed under section 1561 on the amount of taxable income in each bracket set forth in section 11(b) must be taken into account.

Section 383 and the temporary regulations generally apply to any loss corporation with respect to which an ownership change occurs after December 31, 1986. If section 383 was not taken into account, or was applied other than in accordance with the regulations under section 383 in a prior taxable year the taxpayer should file an amended return and pay additional tax due plus interest.

The temporary regulations relating to the limitations on certain capital losses and excess credits in computing the alternative minimum tax have been reserved, and will be addressed in a future set of regulations.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Lori J. Jones, Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, in matters of both substance and style.

List of Subjects

26 CFR 1.301–1 through 1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, parts 1 and 602 of title 26 of the Code of Federal Regulations are amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * § 1.382–2T also issued under 26 U.S.C. 382(g)(4)(C), 26 U.S.C. 382(i), 26 U.S.C. 382(k)(1), 26 U.S.C. 382(k)(6), 26 U.S.C. 382(l)(3), 26 U.S.C. 382(m), and 26 U.S.C. 383, and § 1.383–1T and § 1.383–2T also issued under 26 U.S.C. 383.

§ 1.382–1T [Amended]

Par. 2. Section 1.382–1T is amended as follows:

The table of sections in paragraph (a) is amended by adding immediately after paragraph (a)(2)(iii):

(a) * * *
(2) * * *
(iv) Additional rules regarding information statements
(A) Exception
(B) Statement with respect to prior periods.
* * * * * *

Par. 3. Section 1.383–2T is amended as follows:

1. Paragraph (a)(1) is amended by adding a new sentence at the end thereof.

2. Paragraph (a)(2)(ii) is amended by revising the first sentence of the introductory text and by adding concluding text at the end of the paragraph.

3. Paragraph (a)(2)(iv) is added.

4. Paragraph (f)(1) is revised.

5. Paragraph (f)(18) is amended by adding a new sentence before the last sentence of both (f)(18)(ii)(C) and (f)(18)(iii)(C).

6. Paragraph (f)(22) is amended by deleting "and" at the end of (f)(22)(ii), by deleting the period after (f)(22)(iii) and inserting a comma in its place, and by adding new paragraphs (f)(22) (iv) and (v)

7. Paragraph (h)(4)(ix) is amended by adding a new sentence after the first sentence.

8. The added and revised provisions read as follows:

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (Temporary).

(a) *Ownership change*—(1) *In general.* * * * See section 383 and § 1.383–1T for rules relating to loss corporations that have an ownership change and have capital loss carryovers, excess foreign taxes carried over under section 904(c), carryovers of general business credits under section 39, or unused minimum tax credits under section 53.

(2) *Events requiring a determination of whether an ownership change has occurred.* * * *

(ii) *Information statement required.* A loss corporation must file a statement with its income tax return for each taxable year that it is a loss corporation in which an owner shift, equity structure shift or other transaction described in

paragraph (a)(2)(i) of this section occurs.
* * *

* * * * *

See paragraph (a)(2)(iv) and (m)(4)(v) of this section for transitional rules regarding the filing of information statements.

* * * * *

(iv) *Additional rules regarding information statements*— (A) *Exception.* An information statement described in paragraph (a)(2)(ii) of this section that would be required to be filed solely by reason of the loss corporation having pre-change capital losses (as defined in § 1.383–1T(c)(2) (i) and (ii)) or pre-change credits (as defined in § 1.383–1T(c)(3)) is not required to be filed with the income tax return of the loss corporation for any taxable year for which the due date (including extensions) of the income tax return is on or before November 20, 1989, or for which the income tax return is filed on or before October 10, 1989.

(B) *Statement with respect to prior periods.* A corporation which is a loss corporation for any taxable year ending in 1987, 1988 or 1989 solely because it has pre-change capital losses (as defined in § 1.383–1T(c)(2) (i) and (ii)) or pre-change credits (as defined in § 1.383–1T(c)(3)) must attach a separate information statement to its 1988 and 1989 income tax returns. Such information statement must (i) include the information specified in paragraphs (a)(2)(ii) (A) and (B) of this section (without regard to testing dates before May 6, 1986) for each taxable year ending on or after May 6, 1986 for which the corporation was a loss corporation, (ii) state whether and to what extent pre-change capital losses (as defined in § 1.383–1T(c)(2) (i) and (ii)) or pre-change credits (as defined in § 1.383–1T(c)(3)) utilized by the corporation in a taxable year to which the section 382 limitation applied, exceeded the amount permitted under § 1.383–1T, and (iii) be labeled "Information Statement with Respect to Transition Periods." For purposes of the preceding sentence, information previously reported in an information statement, including a statement filed with a 1988 return, may be excluded. The requirements of this subdivision (B) apply only with respect to 1988 and 1989 taxable years with respect to which the due date of the income tax return (including extensions) is after November 20, 1989, and for which the income tax return is not filed on or before October 10, 1989.

* * * * *

(f) *Definitions.* * * *

(1) *Loss corporation*—(i) *In general.* The term "loss corporation" means a corporation which—

(A) Is entitled to use a net operating loss carryforward, a capital loss carryover, a carryover of excess foreign taxes under section 904(c), a carryforward of a general business credit under section 39, or a carryover of a minimum tax credit under section 53,

(B) For the taxable year in which an owner shift, equity structure shift or other transaction described in paragraph (a)(2)(i) of this section occurs (determined for purposes of this paragraph (f)(1) without regard to whether the corporation is a loss corporation) has a net operating loss, a net capital loss, excess foreign taxes under section 904(c), unused general business credits under section 38, or an unused minimum tax credit under section 53, or

(C) Has a net unrealized built-in loss (determined for purposes of this paragraph (f)(1) by treating the date on which such determination is made as the change date). See section 382(h)(3) for the definition of net unrealized built-in loss. See section 383 and § 1.383–1T for rules relating to a loss corporation that has an ownership change and has capital losses, excess foreign taxes, general business credits or minimum tax credits. Any predecessor or successor to a loss corporation described in this paragraph (f)(1) is also a loss corporation.

(ii) *Distributor or transferor loss corporation in a transaction under section 381.* Notwithstanding that a loss corporation ceases to exist under state law, if its net operating loss carryforwards, excess foreign taxes, or other items described in section 381(c) are succeeded to and taken into account by an acquiring corporation in a transaction described in section 381(a), such loss corporation shall be treated as continuing in existence until—

(A) Any pre-change losses (excluding pre-change credits described in § 1.383–1T(c)(3)), determined as if the date of such transaction were the change date, are fully utilized or expire under either section 172 or section 1212,

(B) Any net unrealized built-in losses, determined as if the date of such transaction were the change date, may no longer be treated as pre-change losses, and

(C) Any pre-change credits (described in § 1.383–1T(c)(3)), determined as if the date of such transaction were the change date, are fully utilized or expire under sections 39, 53, or 904(c).

Following a transaction described in the preceding sentence, the stock of the acquiring corporation shall be treated as the stock of the loss corporation for purposes of determining whether an ownership change occurs with respect to the pre-change losses and net unrealized built-in losses that may be treated as pre-change losses of the distributor or transferor corporation.

(iii) *Separate accounting required for losses and credits of an acquiring corporation and a distributor or transferor loss corporation.* Pre-change losses (determined as if the testing date were the change date and treating the amount of any net unrealized built-in loss as a pre-change loss), that are succeeded to and taken into account by an acquiring corporation in a transaction to which section 381(a) applies must be accounted for separately from losses and credits of the acquiring corporation for purposes of applying this section. See Example (2) of paragraph (e)(2)(iv) of this section.

* * * * *

(18) *Stock* * * *

(ii) *Treating stock as not stock.* * * *

(C) * * * For purposes of the preceding sentence, any pre-change credits, as defined in § 1.383–1T(c)(3), must be converted to a deduction equivalent by dividing the amount of such credits by the maximum effective rate of tax provided for under section 11 (*e.g.*, 0.34 for taxable years beginning in 1989). * * *

(iii) *Treating interests not constituting stock as stock.* * * *

(C) * * * For purposes of the preceding sentence, any pre-change credits, as defined in § 1.383–1T(c)(3), must be converted to a deduction equivalent by dividing the amount of such credits by the maximum effective rate of tax provided for under section 11 (*e.g.*, 0.34 for taxable years beginning in 1989).

* * * * *

(22) *Pre-change loss.* * * *

(iv) Any pre-change capital losses described in § 1.383–1T(c)(2) (i) and (ii), and

(v) Any pre-change credits described in § 1.383–1T(c)(3).

* * * * *

(h) *Constructive ownership of stock.* * * *

(4) *Option attribution.* * * *

(ix) *Option rule inapplicable if pre-change losses are de minimis.* * * * For purposes of the preceding sentence, any pre-change credits, as defined in § 1.383–1T(c)(3), must be converted to a deduction equivalent by dividing the amount of such credits by the maximum effective rate of tax provided for under

section 11 (*e.g.*, 0.34 for taxable years beginning in 1989). * * *

* * * * *

Par. 4. New § 1.383–1T is added to read as set forth below and new § 1.383–2T is added and reserved.

§ 1.383–1T Special limitations on certain capital losses and excess credits (Temporary).

(a) *Outline of topics.* In order to facilitate the use of this section, this paragraph lists the paragraphs, subparagraphs and subdivisions contained in this section.

(a) Outline of topics.
(b) In general.
(c) Definitions.
(1) Coordination with definitions and nomenclature used in section 382.
(2) Pre-change capital loss.
(3) Pre-change credit.
(4) Pre-change loss.
(5) Regular tax liability.
(6) Section 383 credit limitation.
(i) Definition.
(ii) Example.
(d) Limitation on use of pre-change losses and pre-change credits.
(1) In general.
(2) Ordering rules for utilization of pre-change losses and pre-change credits and for absorption of the section 382 limitation and the section 383 credit limitation.
(3) Coordination with other limitations.
(i) In general.
(ii) Examples.
(e) Carryforward of unused section 382 limitation.
(1) Computation of carryforward amount.
(2) Section 383 credit reduction amount.
(3) Computation of section 383 credit reduction amount: illustration using tax rates and brackets in effect for calendar year 1988.
(4) Special rules for determining the section 383 credit reduction amount.
(i) Ordering rules.
(ii) Special rule for credits under section 38(a).
(f) Examples.
(g) Coordination with section 382 and the regulations thereunder.
(h) Alternative minimum tax.
(i) [Reserved]
(j) Effective date.

(b) *In general.* Under section 383, if an ownership change occurs with respect to a loss corporation, the section 382 limitation and the section 383 credit limitation (as defined in paragraph (c)(6) of this section) for a post-change year shall apply to limit the amount of taxable income and regular tax liability, respectively, that can be offset by pre-change capital losses and pre-change credits of the new loss corporation. The section 383 credit limitation for a post-change year bears a direct relationship to the amount, if any, of the section 382 limitation that remains after taking into account the reduction in the loss corporation's taxable income during a post-change year as a result of its pre-change losses (as defined in paragraph (c)(4) of this section). In general, the section 383 credit limitation is an amount equal to the tax liability of the new loss corporation for the post-change year which is attributable to so much of the corporation's taxable income that would be reduced by allowing as a deduction its section 382 limitation remaining after accounting for the use of pre-change losses. As pre-change losses and pre-change credits of a corporation are used, they absorb the section 382 limitation and the section 383 credit limitation, respectively, in the manner prescribed by paragraph (d) of this section. See also section 382 and the regulations thereunder.

(c) *Definitions*—(1) *Coordination with definitions and nomenclature used in section 382.* Terms and nomenclature used in this section, and not otherwise defined herein, shall have the same respective meanings as in section 382 and the regulations thereunder, taking into account that the limitations of section 383 and this section apply to pre-change capital losses and pre-change credits.

(2) *Pre-change capital loss.* The term "pre-change capital loss" means—

(i) Any capital loss carryover under section 1212 of the old loss corporation to the taxable year ending on the change date or in which the change date occurs,

(ii) Any net capital loss of the old loss corporation for the taxable year in which the ownership change occurs, to the extent such loss is attributable to the period in such year ending on or before the change date, and

(iii) If the old loss corporation has a net unrealized built-in loss, any recognized built-in loss for any recognition period taxable year (within the meaning of section 382(h)) that is a capital loss.

(3) *Pre-change credit.* The term "pre-change credit" means—

(i) Any excess foreign taxes under section 904(c) of the old loss corporation—

(A) carried forward to the taxable year ending on the change date or in which the change date occurs, or

(B) carried forward from the taxable year that includes the change date, to the extent such credit is attributable to the period in such year ending on or before the change date,

(ii) Any credit under section 38 of the old loss corporation—

(A) carried forward to the taxable year ending on the change date or in which the change date occurs, or

(B) carried forward from a taxable year that includes the change date to the extent such credit is attributable to the period in such year ending on or before the change date, and

(iii) The available minimum tax credit of the old loss corporation under section 53 to the extent attributable to periods ending on or before the change date.

(4) *Pre-change loss.* Solely for purposes of this section, the term "pre-change loss" means any pre-change loss described in § 1.382–2T(f)(22) other than pre-change credits described in paragraph (c)(3) of this section.

(5) *Regular tax liability.* For purposes of this section, the term "regular tax liability" has the same meaning as provided in section 26(b).

(6) *Section 383 credit limitation*—(i) *Definition.* The "section 383 credit limitation" for a post-change year of a new loss corporation is an amount equal to the excess of—

(A) The new loss corporation's regular tax liability for the post-change year, over

(B) The new loss corporation's regular tax liability for the post-change year computed, for this purpose, by allowing as an additional deduction an amount equal to the section 382 limitation remaining after the application of paragraphs (d)(2) (i) through (iv) of this section.

(ii) *Example.* L, a new loss corporation, is a calendar year taxpayer. L has an ownership change on December 31, 1987. For 1988, L has taxable income (prior to the use of any pre-change losses) of $100,000. In addition, L has a section 382 limitation of $25,000, a pre-change net operating loss carryover of $12,000, a pre-change minimum tax credit of $50,000, and no pre-change capital losses. L's section 383 credit limitation is the excess of its regular tax liability computed after allowing a $12,000 net operating loss deduction (taxable income of $88,000; regular tax liability of $18,170), over its regular tax liability computed after allowing an additional deduction in the amount of L's section 382 limitation remaining after the application of paragraphs (d)(2) (i) through (iv) of this section, or $13,000 (taxable income of $75,000; regular tax liability of $13,750). L's section 383 credit limitation is therefore $4,420 ($18,170 minus $13,750).

(d) *Limitation on use of pre-change losses and pre-change credits*—(1) *In general.* The amount of taxable income of a new loss corporation for any post-change year that may be offset by pre-change losses shall not exceed the amount of the section 382 limitation for the post-change year. The amount of the regular tax liability of a new loss corporation for any post-change year that may be offset by pre-change credits

shall not exceed the amount of the section 383 credit limitation for the post-change year.

(2) *Ordering rules for utilization of pre-change losses and pre-change credits and for absorption of the section 382 limitation and the section 383 credit limitation.* Pre-change losses described in any subdivision of this paragraph (d)(2) can offset taxable income in a post-change year only to the extent that the section 382 limitation for that year has not been absorbed by pre-change losses described in any lower-numbered subdivisions. Pre-change credits described in any subdivision of this paragraph (d)(2) can offset regular tax liability in a post-change year only to the extent that the section 383 credit limitation for that year has not been absorbed by pre-change credits described in any lower numbered subdivisions. The section 382 limitation is absorbed by one dollar for each dollar of pre-change loss that is used to offset taxable income. The section 383 credit limitation is absorbed by one dollar for each dollar of pre-change credit that is used to offset regular tax liability. For each post-change year, the section 382 limitation and the section 383 credit limitation of a new loss corporation are absorbed by such corporation's pre-change losses and pre-change credits in the following order:

(i) Pre-change capital losses described in paragraph (c)(2)(iii) of this section that are recognized and are subject to the section 382 limitation in such post-change year,

(ii) Pre-change capital losses described in paragraphs (c)(2) (i) and (ii) of this section,

(iii) Pre-change losses that are described in § 1.382–2T(f)(22)(iii) (other than losses that are pre-change capital losses) that are recognized and are subject to the section 382 limitation in such post-change year,

(iv) Pre-change losses not described in paragraphs (d)(2) (i) through (iii) of this section,

(v) Pre-change credits described in paragraph (c)(3)(i) of this section (excess foreign taxes),

(vi) Pre-change credits described in paragraph (c)(3)(ii) of this section (business credits), and

(vii) Pre-change credits described in paragraph (c)(3)(iii) of this section (minimum tax credit).

(3) *Coordination with other limitations*—(i) *In general.* Paragraphs (d) (1) and (2) of this section shall be applied after the application of all other limitations contained in subtitle A which are applicable to the use of a pre-change loss or pre-change credit in a post-change year. Thus, only otherwise currently allowable pre-change losses and pre-change credits will result in the absorption of the section 382 limitation and the section 383 credit limitation.

(ii) *Examples:*

Example (1). L is a calendar year taxpayer and has an ownership change on December 31, 1987. For 1988, L has taxable income of $300,000, a regular tax liability of $100,250 and a tentative minimum tax of $90,000. L has no pre-change losses, but has a business credit carryforward from 1985 of $25,000, no portion of which is due to the regular percentage of the investment tax credit under section 46. L has a section 382 limitation for 1988 of $50,000. L's section 383 credit limitation is $19,500, i.e., an amount equal to the excess of L's regular tax liability ($100,250) over its regular tax liability calculated by allowing an additional deduction of $50,000. Pursuant to the limitation contained in section 38(c), however, L is entitled to use only $10,250 of its business credit carryforward in 1988. The unabsorbed portion of L's section 382 limitation (computed pursuant to paragraph (e) of this section) is carried forward under section 382(b)(2). The unused portion of L's business credit carryforward, $14,750, is carried forward to the extent provided in section 39.

Example (2). Assume the same facts as in *Example (1),* except that L's tentative minimum tax is $70,000. L's use of its investment tax credit carryforward is no longer limited by section 38(c); however, pursuant to section 383 and this section, L is entitled to use only $19,500 of its business credit carryforward in 1988. The unused portion of L's business credit carryforward, $5,500, is carried forward to the extent provided in section 39. There is no unused section 382 limitation to be carried forward.

(e) *Carryforward of unused section 382 limitation*—(1) *Computation of carryforward amount.* The section 382 limitation that can be carried forward under section 382(b)(2) is the excess, if any, of (i) the section 382 limitation for the post-change year remaining after the application of paragraphs (d)(2) (i) through (iv) of this section, over (ii) the section 383 credit reduction amount for that post-change year.

(2) *Section 383 credit reduction amount.* The section 383 credit reduction amount for a post-change year is equal to the amount of taxable income attributable to the portion of the new loss corporation's regular tax liability for the year that is offset by pre-change credits. Each dollar of regular tax liability that is offset by a dollar of pre-change credit is divided by the effective marginal rate at which that dollar of tax was imposed to determine the amount of taxable income that resulted in that particular dollar of regular tax liability. The sum of these "grossed-up" amounts for the taxable year is the section 383 credit reduction amount. In determining the effective marginal rate at which a dollar of tax was imposed, special rules regarding rates of tax (*e.g.,* sections 11(b) (2) and (15) or taxable income brackets (*e.g.,* section 1561), or both, shall be taken into account. See Example (3) in paragraph (f) of this section illustrating the effect of section 1561(a). Paragraph (e)(3) of this section illustrates the gross-up computation of the section 383 credit reduction amount based on the tax table and the rates of tax prescribed by section 11(b) as in effect for taxable years beginning on January 1, 1988.

(3) *Computation of section 383 credit reduction amount; illustration using tax rates and brackets in effect for calendar year 1988.* (i) Assuming no special rules regarding rates of tax or taxable income brackets apply, the section 383 credit reduction amount for a new loss corporation is the sum of the amounts determined under paragraphs (e)(3) (ii), (iii), (iv), (v), and (vi) of this section.

(ii) The amount determined under this subdivision (ii) is the amount (if any) by which pre-change credits offset so much of the new loss corporation's regular tax liability as exceeds $113,900, divided by 0.34.

(iii) The amount determined under this subdivision (e)(3)(iii) is the amount (if any) by which pre-change credits offset so much of the new loss corporation's regular tax liability as exceeds $22,250 (but does not exceed $113,900), divided by 0.39.

(iv) The amount determined under this subdivision (e)(3)(iv) is the amount (if any) by which pre-change credits offset so much of the new loss corporation's regular tax liability as exceeds $13,750 (but does not exceed $22,250), divided by 0.34.

(v) The amount determined under this subdivision (e)(3)(v) is the amount (if any) by which pre-change credits offset so much of the new loss corporation's regular tax liability as exceeds $7,500 (but does not exceed $13,750), divided by 0.25.

(vi) The amount determined under this subdivision (e)(3)(vi) is the amount (if any) by which pre-change credits offset so much of the new loss corporation's regular tax liability as does not exceed $7,500, divided by 0.15.

(4) *Special rules for determining the section 383 credit reduction amount*—(i) *Ordering rules.* For purposes of this paragraph (e), credits, including pre-change credits, are considered to offset regular tax liability in the order that such credits are applied under the ordering rules of part IV of subchapter A of chapter 1 and section 904. For example, for purposes of this paragraph (e), excess foreign taxes carried over

under section 904(c) (whether or not a pre-change credit) are considered (under section 38(c)) to offset regular tax liability before the general business credit under section 38, and general business credits arising in the taxable year are considered (under section 39) to offset regular tax liability before general business credit carryovers to the taxable year.

(ii) *Special rule for credits under section 38(a).* For purposes of applying this paragraph (e), credits under section 38(a) that, under section 38(c)(2), effectively offset both regular tax liability and the tax imposed by section 55 (relating to minimum tax), are considered to offset regular tax liability.

(f) *Examples.* The following examples illustrate the operation of paragraphs (b) through (e) of this section. For purposes of these examples, the term "modified tax liability" means the amount determined under paragraph (c)(6)(i)(B) of this section.

Example (1). (i) L, a calendar year taxpayer, has an ownership change on December 31, 1987. Before the application of carryovers, L, a new loss corporation, has $60,000 of capital gain, $100,000 of ordinary taxable income and a section 382 limitation of $100,000 for its first post-change year beginning after the change date. L's only carryovers are an $80,000 capital loss carryover and a $100,000 net operating loss carryover. Both carryovers are from taxable years ending before the change date and thus are pre-change losses.

(ii) L first uses $60,000 of its pre-change capital loss carryover to offset its capital gain. This reduces its section 382 limitation to $40,000 (i.e., $100,000−$60,000). L's pre-change net operating loss carryover can therefore be used only to the extent of $40,000. L's remaining $20,000 pre-change capital loss carryover and remaining $60,000 pre-change net operating loss carryover are carried to later years to the extent permitted under this section and sections 172, 382(1)(2) and 1212.

Example (2). (i) L, a calendar year taxpayer, has an ownership change on December 31, 1987. L has $750,000 of ordinary taxable income (before the application of carryovers) and a section 382 limitation of $1,500,000 for 1988. L's only carryovers are from pre-1987 taxable years and consist of a $500,000 net operating loss ("NOL") carryover and a $200,000 foreign tax credit carryover, all of which may be used under the section 904 limitation. The NOL carryover is a pre-change loss, and the foreign tax credit carryover is a pre-change credit. L has no other credits which can be used for 1988 and is not liable for an alternative minimum tax for 1988.

(ii) The following computation illustrates the application of this section for 1988:

1. Taxable income before carryovers	$750,000
2. Pre-change NOL carryover	500,000
3. Section 382 limitation	1,500,000
4. Amount of pre-change NOL carryover that can be used (lesser of line 1, 2, or 3)	500,000
5. Taxable income (line 1 minus line 4)	250,000
6. Section 382 limitation remaining (line 3 minus line 4)	1,000,000
7. Pre-change credit carryover	200,000
8. Regular tax liability (line 5 × section 11 rates): $50,000×0.15=$7,500 25,000×0.25=6,250 25,000×0.34=8,500 150×0.39=58,500	80,750
9. Modified tax liability (line 5 minus line 6 (but not less than zero)) × section 11 rates)	0
10. Section 383 credit limitation (line 8 minus line 9)	80,750
11. Amount of pre-change credits that can be used (lesser of line 7 or line 10)	80,750
12. Amount of pre-change credits to be carried over to 1989 under section 904(c) (line 7 minus line 11)	119,250
13. Section 383 credit reduction amount: ($80,750 minus $22,250)/0.93=$150,000 ($22,250 minus $13,750)/0.34=25,000 ($13,750 minus $7,500)/0.25=25,000 $7,500/0.15=50,000	250,000
14. Section 382 limitation to be carried to 1989 under section 382(b)(2) (Line 6 minus line 13)	750,000

Example (3). (i) Assume the same facts as in *Example (2)*, except that, for purposes of section 1561(a), L is a component member of a controlled group of corporations and the taxable income of the controlled group of corporations for 1988 is $2,000,000.

(ii) The following computation illustrates the application of this section for 1988:

1. Taxable income before carryovers	$750,000
2. Pre-change NOL carryover	500,000
3. Section 382 limitation	1,500,000
4. Amount of pre-change NOL carryover that can be used (lesser of line 1, 2, or 3)	500,000
5. Taxable income (line 1 minus line 4)	250,000
6. Section 382 limitation remaining (line 3 minus line 4)	1,000,000
7. Pre-change credit carryover	200,000
8. Regular tax liability (line 5×0.34 (the effective section 11 rate under section 1561(a)))	85,000
9. Modified tax liability (line 5 minus line 6 (but not less than zero)) × section 11 rates)	0
10. Section 383 credit limitation (line 8 minus line 9)	85,000
11. Amount of pre-change credits that can be used (lesser of line 7 or line 10)	85,000
12. Amount of pre-change credits to be carried over to 1989 under section 904(c) (line 7 minus line 11)	115,000
13. Section 383 credit reduction amount (line 11 divided by 0.34)	250,000
14. Section 383 limitation to be carried to 1989 under section 382(b)(2) (line 6 minus line 13)	750,000

Example (4). (i) L, a calendar year taxpayer, has an ownership change on December 31, 1987. L has $80,000 of ordinary taxable income (before the application of carryovers) and a section 382 limitation of $25,000 for 1988, a post-change year. L's only carryover is from a pre-1987 taxable year and is a general business credit carryforward under section 39 in the amount of $10,000 (no portion of which is attributable to the investment tax credit under section 46). The general business credit carryforward is a pre-change credit. L has no other credits which can be used for 1988 and is not liable for an alternative minimum tax for 1988.

(ii) The following computation illustrates the application of this section:

1. Taxable income	$80,000
2. Section 382 limitation	25,000
3. Pre-change credit carryover	10,000
4. Regular tax liability (line 1 × section 11 rates): $50,000×0.15=$7,500 25,000×0.25=6,250 5,000×0.34=1,700	15,450
5. Modified tax liability ((line 1 minus line 2) × section 11 rates): $50,000×0.15=$7,500 5,000×0.25=1,250	8,750
6. Section 383 credit limitation (line 4 minus line 5)	6,700
7. Amount of pre-change credits that can be used (lesser of line 3 or line 6)	6,700
8. Amount of pre-change credits to be carried over to 1989 under sections 39 and 382(1)(2) (line 3 minus line 7)	3,300
9. Regular tax payable (line 4 minus line 7)	8,750
10. Section 383 credit reduction amount: ($15,450 minus $13,750)/0.34=$5,000 ($13,750 minus $8,750)/0.25=20,000	25,000
11. Section 382 limitation to be carried to 1989 under section 382(b)(2) (line 2 minus line 10)	0

(g) *Coordination with section 382 and the regulations thereunder.* The rules and principles of section 382 (including, for example, section 382(b)(3) and section 382(1)(2)) and the regulations thereunder shall also apply with respect

to section 383 and this section. In applying the rules and principles of section 382 and the regulations thereunder, appropriate adjustments shall be made to take into account that section 383 and this section apply to pre-change capital losses and pre-change credits

(h) *Alternative minimum tax.* See § 1.383–2T for the application of the limitations contained in sections 382 and 383 in computing the alternative minimum tax under section 55.

(i) [Reserved]

(j) *Effective date.* Subject to any exception from the application of section 382 or the section 382 limitation with respect to a loss corporation, section 383 and this section apply to any loss corporation with respect to which an ownership change occurs after December 31, 1986. See § 1.382–2T(m) for effective date rules relating to ownership changes. If section 383 was not taken into account or was applied other than in accordance with this section in a prior taxable year with respect to which section 383 applies, the taxpayer should, within the period of limitation, file an amended return and pay any additional tax due plus interest.

§ 1.383–2T Limitations on certain capital losses and excess credits in computing alternative minimum tax (Temporary). [Reserved]

PART 602—[AMENDED]

Par. 5. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by inserting in the appropriate place in the table "Section 1.382–2T * * * 1545–0123".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Dated: August 25, 1989.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 89–22108 Filed 9–19–89; 8:45 am]

BILLING CODE 4830–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Arlington County (VA) Human Rights Commission

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Arlington County (VA) Human Rights Commission as a 706 Agency.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Valentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, 1801 L Street NW., Washington, DC 20507, Telephone (202) 663–4892.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

Accordingly, 29 CFR part 1601 is amended as follows:

1. The authority citation for part 1601 continues to read as follows:

Authority: Secs. 709, 713, 78 Stat. 263, 265; 42 U.S.C. 2000e–8, 2000e–12.

§ 1601.74 [AMENDED]

2. In § 1601.74(a) footnotes 2 through 12 are redesignated as 3 through 13, and the corresponding superscripts in the regulatory text are redesignated accordingly.

3. In § 1601.74(a) the list is amended by adding, in alphabetical order, the following entry: Arlington County (VA) Human Rights Commission.[2]

[2] The Arlington Human Rights Commission has been designated as a 706 Agency for all charges except charges alleging a violation of Title VII by a government, government agency, or political subdivision of the State of Virginia.

For these types of charges it shall be deemed a "Notice agency," pursuant to 29 CFR 1601.71(3).

Signed at Washington, DC this 13th day of September 1989.

For the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 89–22171 Filed 9–19–89; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 89–06]

Drawbridge Operation Regulations; Lake Washington Ship Canal, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule; extension.

SUMMARY: The Coast Guard is extending the current temporary rule governing operation of the Montlake Bridge across the Lake Washington Ship Canal, mile 5.4, at Seattle, Washington. The temporary rule extends the weekday afternoon closed period by one-half hour (3:30 p.m. to 6:00 p.m. instead of the present 4:00 p.m. to 6:00 p.m.) and allows openings only on the hour and half hour Monday through Friday, except holidays from 12:30 p.m. to 3:00 p.m. and 6:00 p.m. to 6:30 p.m. Response to the current temporary rule has been generally favorable. Based upon that response, the Coast Guard intends to process a proposed permanent rule change. Extension of the temporary rule will allow the bridge to be operated in its current mode until publication of a Notice of Proposed Rulemaking, comment period, and implementation of the final rule. This action should accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This temporary regulation becomes effective on September 8, 1989, and terminates upon the effective date of the final rule, or not later than December 31, 1989.

ADDRESSES: Comments should be mailed to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067. The comments and other materials referenced in this notice will be available for inspection and copying at 915 Second Avenue, Room 3564. Normal office hours are between 7:45 a.m. and 4:15 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: Persons affected by these temporary regulations are invited to comment on their feasibility and impact on both marine and vehicular traffic. Comments should include observed effects, both beneficial and detrimental, and any suggestions for changes. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with, opposition to, or any recommended changes in, the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal.

DRAFTING INFORMATION

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Deborah K. Schram, project attorney.

Discussion of the Temporary Regulations

On June 8, 1989, at the request of the City of Seattle, the Coast Guard published a temporary rule (54 FR 24555). The Commander, Thirteenth Coast Guard District, also published information concerning the change in Public Notice 89–N–04, dated June 14, 1989. Interested parties were given until September 8, 1989 to submit comments. The temporary change served as a trial period to evaluate the effects of requested changes to drawbridge operating regulations for the Lake Washington Ship Canal, 33 CFR 117.1051. We received a total of seven comments concerning the change; four from boaters, two from concerned citizens, and one from a federal governmental agency. The boaters objected to the change, the concerned citizens were in favor of the change, and the governmental agency had no objection to the change. The primary concern of the boaters was the danger of waiting for bridge openings while maneuvering within the Montlake Cut. As the trial period progressed, most boaters either planned their trips to arrive at the scheduled opening time, or waited outside the Montlake Cut until it was time for an opening. Extending the temporary change while a permanent change is being processed will avoid confusing waterway users and allow additional time for comment and evaluation.

Economic Assessment and Certification

These temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. Preliminary evaluation of the trial change indicates that the temporary regulation will relieve vehicular traffic congestion in the Montlake Corridor without causing unnecessary delays to navigation.

Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Section 117.1051 is amended for the period September 8, 1989, through December 31, 1989 by revising the introductory text of paragraph (d) and adding paragraph (e) to read as follows:

Note: Because this is a temporary rule, the following amendment will not be codified in the Code of Federal Regulations.

§ 117.1051 Lake Washington Ship Canal.

* * * * *

(d) The draws of the Ballard Bridge, mile 1.1, Fremont Bridge, mile 2.6, and University Bridge, mile 4.3, shall open on signal, except that:

* * * * *

(e) The draw of the Montlake Bridge, mile 5.2, shall open on signal, except that:

(1) The draw need not open for a period of up to 10 minutes after receiving an opening request, if needed to pass accumulated vehicular traffic. However, the draw shall open without delay, when requested by vessels engaged in towing operations.

(2) Monday through Friday, except Federal Holidays, for any vessel or watercraft of less than 1,000 gross tons, unless the vessel has in tow a vessel of 1,000 gross tons or over:

(i) The draw need not open from 7 a.m. to 9 a.m. and 3:30 p.m. to 6 p.m.

(ii) From 12:30 p.m. to 3:30 p.m. and from 6 p.m. to 6:30 p.m., the draw need open only on the hour and half hour.

(3) Between the hours of 11 p.m. and 7 a.m. the draw shall open if at least one hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Bridge.

Dated: September 11, 1989.

R. E. Kramek,

Rear Admiral, U. S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 89–22247 Filed 9–19–89; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone, San Clemente Island, Pacific Ocean, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Suspension of interim final rule.

SUMMARY: On February 13, 1989, the Corps of Engineers published an interim final rule in the **Federal Register** (54 FR 6519) which established a danger zone in the waters of the Pacific Ocean off the northwest tip of San Clemente Island, California. In view of the comments we have received which oppose the establishment of the danger zone, we have determined it to be in the best interest of the public to suspend the interim final rule. The U.S. Navy is presently re-evaluating the project. Any future decisions regarding the San Clemente danger zone will be published in a public notice by the Los Angeles District Engineer and in the **Federal Register.**

DATE: Effective on September 20, 1989.

ADDRESS: HQUSACE, CECW–OR, Washington, D.C. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Harlacher at (213) 894–5606 or Mr. Ralph T. Eppard at (202) 272–1783.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above the U.S. Army Corps of Engineers is amending Part 334 of Title 33 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; 33 U.S.C.1) and 40 Stat. 892; 33 U.S.C.3).

§ 334.961 [Suspended]

2. The interim final rule establishing § 334.961 is suspended.

Dated: September 1, 1989.

Wilbur T. Gregory, Jr.,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 89-22232 Filed 9-19-89; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8F3592 and FAP 8H5550/R1032; FRL-3648-5]

Pesticide Tolerances for Avermectin B1 and its Delta-8,9-Isomer; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects 40 CFR 180.449 to reinstate the commodity cottonseed, which was inadvertently omitted from a revision of the section.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, Product Manager (PM) 15, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 200, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2400

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 2, 1989 (54 FR 31836), EPA revised 40 CFR 180.449 to add the commodities citrus, whole fruit; cattle, meat; cattle, meat byproducts; and milk. A preexisting entry for cottonseed, added in the **Federal Register** of May 31, 1989 (54 FR 23211), was inadvertently omitted in the revised section, and this correction document reinstates it.

Authority: 21 U.S.C. 346a.

Dated: September 1, 1989.

Edwin F. Tinsworth,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.449 is corrected by reinstating the entry for cottonseed, to read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

* * * * *

Commodities	Parts per million	Expiration date
* * * * *		
Cottonseed	0.005	March 31, 1993
* * * * *		

[FR Doc. 89-22072 Filed 9-19-89; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-3

[FPMR Amdt. A-47]

Annual Report of Real Property Owned by or Leased to the United States

AGENCY: Governmentwide Policy Division, GSA.

ACTION: Final rule.

SUMMARY: This regulation revises FPMR 101-3 with changes and additions to the data elements currently collected as part of the World-wide Real Property Inventory System. It displays the revised forms to be used when supplying this information. These changes are necessary to monitor Governmentwide space reduction initiatives mandated by Executive Order 12411, Government Work Space Management Reforms and Temporary Regulation D-73, Quality Workplace Environment.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James Cayce, GSA, 566-0507.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined this is not a major rule for the purposes 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. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence 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 101-3

Government procurement, Types of contracts, Procurement by negotiation, Small purchases, Cost accounting standards.

PART 101-3—ANNUAL REAL PROPERTY INVENTORIES

1. The authority citation for part 101-3 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 101-3.000 is revised to read as follows:

§ 101-3.000 Scope of part.

This part prescribes that procedures and forms for use by executive agencies in preparing annual reports necessary for the maintenance and publication of inventories of real property owned by and leased to the United States as of the last day of September of each fiscal year.

Subpart 101-3.1—General Provisions

3. Section 101-3.101 is amended by revising paragraph (b) and adding paragraph (c).

§ 101-3.101 Background.

* * * * *

(b) The House Committee on Government Operations requests data annually on all federally owned real property for inclusion in its real and personal property inventory reports.

(c) Executive Order 12411 and related regulations require annual review of agency goals and plans in the area of space reduction and property disposals.

4. Sections 101-3.102 and 101-3.105 are revised to read as follows:

§ 101-3.102 Program objectives.

The principal objectives of the Governmentwide real property inventory program are:

(a) To provide a centralized source of information on Federal real property holdings;

(b) To track space utilization of reporting agencies;

(c) To identify underutilized property;

(d) To achieve the most effective control and economical Governmentwide utilization of available property;

(e) To facilitate disposal of surplus property;

(f) To evaluate the compliance of reporting agencies with the provisions of Executive Order 12411 and implementing regulations;

(g) To provide a basis for the intelligent evaluation and appraisal of budgetary requirements; and

(h) To establish a ready reference for answering inquiries from the Congress, the press, trade associations, educational institutions, Federal, State and local government agencies, and the general public.

§ 101-3.105 Agency Liaison.

Each reporting agency shall designate an official to serve as agency representative for the real property inventories. The same representative should be designated for the federally owned and leased real property inventories, although separate representatives are permitted. The General Services Administration, Office of Governmentwide Policy, Washington, DC 20405, shall be advised in writing of the names of all such representatives and subsequent changes.

5. Subpart 101-3.2 consisting of §§ 101-3.200 through 101-3.206 is revised as follows:

Subpart 101-3.2—Annual Reports—Real Property Owned by and Leased to the United States

§ 101-3.200 Scope of subpart.

This subpart prescribes the procedures and forms to be used by executive agencies in connection with annual reports on real property owned by and leased to the United States.

§ 101-3.201 Reporting agency.

Reports on real property owned by and leased to the United States shall be submitted by the agency responsible for the maintenance of real property records and accounts as prescribed by General Accounting Office principles and standards and illustrated in 2 GAO 1270 and 2 GAO 7030 for owned property. For purposes of this inventory, the above rule shall apply regardless of the manner of acquisition or which agency is currently using the property. For example:

(a) For general purpose buildings, such as office buildings or warehouses, which are occupied by a Federal agency or agencies upon determination by GSA, and for which GSA is responsible for elevator and guard service, and for cleaning and maintenance, GSA is the reporting agency.

(b) For special purpose buildings, such as Coast Guard stations, military reservations, hospitals, and prisons, those agencies having control of building management and operation including authority to assign or reassign space in such buildings, will be considered as the reporting agencies.

(c) For leased property, the agency currently administering the lease and making payments to the lessor, regardless of which agency executed the original lease or which agency is currently using the property.

§ 101-3.202 Coverage.

The annual reports of real property owned by or leased to the United States shall cover land, buildings, and other structures and facilities owned by the United States throughout the world and all real property leased from private individuals, organizations, and municipal, county, state, and foreign governments, as evidenced by a written agreement involving a monetary consideration and a landlord-tenant relationship. It shall also include right of use and occupancy obtained under eminent domain proceedings or equivalent procedures. These reports shall include the following:

(a) Unreserved public domain lands.

(b) Public domain lands reserved for national forests, national parks, military installations, or other purposes.

(c) Real property acquired by purchase, construction, donation, and other methods.

(d) Real property in which the Government has a long-term interest considered by the reporting agency as being equivalent to ownership.

(e) Buildings or other structures and facilities owned by or leased to the Government whether or not located on Government-owned land.

(f) Excess and surplus real property. (The reporting agency, as defined in Section 101-3.201, shall continue to retain accountability and report excess and surplus real property pending its transfer to a Federal agency or disposal.)

(g) Buildings being acquired under the terms of the Public Buildings Purchase Contract Program or Lease Purchase Agreements (39 U.S.C. 2103, 40 U.S.C. 356). Buildings shall be reported upon completion of construction. Separate annual reports shall also be submitted for real properties held in trust by the Federal Government.

(h) Each lease executed for land only, with an annual rental of $500 or more.

(i) Each lease executed for a building location(s), other structures and facilities, or combination thereof (whether or not land is included), with a total annual rental of $2,000 or more.

(j) Real property leased rent free or for a nominal rental rate may be included when the property is considered significant by the reporting agency. 35 Comp. Gen. 713 is suggested as a guide to help resolve questions pertaining to the definition of nominal payment.

§ 101-3.203 Exclusions.

Annual inventory reports on real property owned by or leased to the United States shall not include the following:

(a) Properties acquired through foreclosure, confiscation, or seizure to be liquidated in settlement of a claim or debt to the Federal Government.

(b) Rights-of-way or easements granted to the Government.

(c) Lands administered by the United States under trusteeship by authority of the United Nations.

(d) Machinery and processing equipment which are not part of the realty.

(e) Real property occupied under permit or other arrangements with other Federal agencies or wholly owned Federal Government corporations.

(f) Leasehold improvements (Government-owned buildings or structures located on leased land shall be reported as owned); and

(g) Real Property leased rent free or for nominal rent when property is not considered significant by the reporting agency.

§ 101-3.204 Reports to be submitted.

(a) Each agency shall prepare in accordance with instructions in § 101-3.4901-1166(I) and submit to GSA a separate report on GSA Form 1166, Annual Report of Real Property Owned by or Leased to the United States (see § 101-3.4901-1166) for:

(1) Each newly acquired or previously omitted installation.

(2) Each installation received by transfer from another Federal agency which is not merged with an existing installation.

(3) Each installation with increases or decreases in cost of $5,000 or more affecting any line item or the total for the installation.

(4) Each installation declared excess or surplus in whole or in part.

(5) Each disposal of a complete installation.

(6) Each installation for which a revision of an entry on a previous report is necessary to reflect a change in the name of an installation, date or method of acquisition of property, acreage, number and/or floor area of buildings, or predominant usage category of land, buildings, or other structures and facilities.

(7) Each new lease becoming effective during the reporting period.

(8) Each renewed lease citing the new expiration date.

(9) Change in annual rental rate.

(b) It is only necessary to report changes since the last reporting period and only identification data and affected line items need be reported. However, agencies reporting for the first time under these revised regulations must report their entire owned and leased inventories.

(c) Each agency shall prepare in accordance with instructions in § 101–3.4901–1209(I) and submit to GSA a separate report on GSA Form 1209, Summary of Number of Installations Owned by or Leased to the United States (see § 101–3.4901–1209) for each bureau or other major organizational unit, for owned and leased real property. Reports on GSA Form 1209 shall be submitted whether or not changes have occurred since the previous report.

§ 101–3.205 Optional reporting method.

Agencies with automated accounting systems may make arrangements with GSA, Office of Governmentwide Policy, to furnish detailed reports via magnetic tape input in lieu of GSA Form 1166. Each agency utilizing this method must obtain the automated reporting requirements from GSA, Office of Governmentwide Policy, before submitting any magnetic tape.

§ 101–3.206 Preparation and due dates.

The annual inventory reports prescribed in § 101–3.204 shall be prepared as of the last day of September of each fiscal year. An original and one copy of each report shall be submitted to the General Services Administration, Office of Governmentwide Policy, Washington, DC 20405, no later than 45 days after the report date.

6. Section 101–3.207 is added to read as follows:

§ 101–3.207 Supplementary information.

This reporting system has been cleared in accordance with FIRMR 201–45.6 and assigned interagency report control number 0315–GSA–AN. This interagency report control number replaces 1119–GSA–AN, 1120–GSA–AN, 1540–GSA–AN and 1541–GSA–AN.

Subpart 101–3.3 [Removed and Reserved]

7. Subpart 101–3.3 (§§ 101–3.300 through 101–3.306) is removed and reserved.

Subpart 101–3.49—Forms and Reports

8. Section 101–3.4901 is revised to read as follows:

§ 101–3.4901 GSA forms.

The GSA forms referenced in this part may be obtained initially from the GSA National Forms and Publications Center, Box 17550, 819 Taylor Street, Fort Worth, TX 76102–0550. Agency field or regional offices should submit future requirements to their Washington, DC, headquarters office which will forward consolidated annual requirements to the General Services Administration, ATTN: 7BR, Fort Worth, TX 76102. The section numbers in this subpart correspond to the GSA form numbers and related instruction for their preparation. Thus in § 101–3.4901–1166(I) appears instructions for the preparation of GSA Form 1166.

9. Sections 101–3.4901–1166 and 101–3.4901–1166(I) are revised to read as follows:

§ 101–3.4901–1166 GSA Form 1166: Annual Report of Real Property Owned by or Leased to the United States.

§ 101–3.4901–1166(I) Instructions for the preparation of GSA Form 1166: Annual Report of Real Property Owned or Leased to the United States.

§§ 101–3.4901–1166A and 101–3.4901–1166A(I) [Removed]

10. Sections 101–3.4901–1166A and 101–3.4901–1166A(I) are removed.

11. Section 101–3.4901–1166A(I) is revised to read as follows:

§ 101–3.4901–1166(I–A) Major cities.

12. Sections 101–3.4901–1209 and 101–3.4901–1209(I) are revised to read as follows:

§ 101–3.4901–1209 GSA Form 1209: Summary of Number of Installations Owned by or Leased to the United States.

§ 101–3.4901–1209(I) Instructions for the preparation of GSA Form 1209: Summary of Number of Installation Owned by or Leased to the United States.

§§ 101–3.4901–1209A and 101–3.4901–1209A(I) [Removed]

13. Sections 101–3.4901–1209A and 101–3.4901–1209A(I) are removed.

Dated: July 12, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–22201 Filed 9–19–89; 8:45 am]

BILLING CODE 6820–23–M

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41 CFR Part 101–5

[FPMR Temp. Reg. A–29 Supp. 3]

Physical Fitness Facilities

AGENCY: Public Buildings Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to FPMR Temporary Regulation A–29 extends the expiration date to September 30, 1990. FPMR Temp. Reg. A–29 established procedures for the establishment and installation of physical fitness facilities.

DATES: Effective date: This regulation is effective October 1, 1989. Expiration date: This regulation expires September 30, 1990.

FOR FURTHER INFORMATION CONTACT: James M. Cayce, Director, Governmentwide Policy Division (202–566–0507).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of E.O. 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. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the 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 101–5

Federal buildings and facilities, Government property management, Health care.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR chapter 101, this temporary regulation is listed in the appendix at the end of subchapter A.

Federal Property Management Regulations

Temporary Regulation A–29, Supplement 3

August 29, 1989.

To: Heads of Federal agencies

Subject: Physical fitness facilities

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A–29 and FPMR Temporary Regulation A–29, Supplement 2.

2. *Effective date.* October 1, 1989.

3. *Expiration date.* This supplement expires September 30, 1990.

4. *Explanation of change.* The expiration date of FPMR Temporary

Regulation A–29 is revised to September 30, 1990.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–22200 Filed 9–19–89; 8:45 am]

BILLING CODE 6820–23–M

41 CFR Parts 101–44 and 101–45

[FPMR Amendment H–173]

Utilization and Disposal of Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation revises portions of FPMR subchapter H to reflect the changes made by the Federal Property Management Improvement Act of 1988 (Pub. L. 100–612) signed by the President on November 5, 1988. The General Services Administration's reporting requirements to the Congress for the evaluation of the operation of the Federal surplus property donation program have been changed to require a biennial report rather than an annual report. The estimated fair market value under which surplus personal property may be sold by negotiation has been increased from $1,000 to $15,000. The requirement for antitrust clearance from the Attorney General for personal property disposal has been changed from "acquisition cost" of less than $30,00,000 to "estimated fair market value" of less than $3,000,000.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Stanley M. Duda, Director, Property Management Division (FBP), 703–557–1240.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes 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 CFR Parts 101–44 and 101–45.

Government property management, Reporting and recordkeeping requirements, Surplus Government property.

1. The authority citation for part 100–44 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

PART 101–44—DONATION OF PERSONAL PROPERTY

Subpart 101–44.47—Reports

2. Section 101–44.4701 is amended by removing and reserving paragraph (c) and revising paragraph (d) to read as follows:

§ 101–44.4701 Reports.

* * * * *

(c) [Reserved]

(d) The Administrator of General Services will submit by April 30, 1991, and biennially thereafter, a report in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives that covers the initial period from November 5, 1988, and each succeeding biennial period and contains a full and independent evaluation of the operation of programs for the donation of Federal surplus personal property; statistical information on the amount of excess personal property transferred to Federal agencies and provided to grantees and non-Federal organizations and surplus personal property approved for donation to the State agencies for surplus property and donated to eligible non-Federal organizations during each succeeding biennial period; and such recommendations as the Administrator determines to be necessary or desirable. A copy of each report will be simultaneously furnished to the Comptroller General of the United States. The Comptroller General shall review and evaluate the report and make any comments and recommendations to the Congress thereon, as he deems necessary or desirable.

* * * * *

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

2a. The authority citation for part 101–45 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), §§ 101–45.400 to 101–45.405 also issued under sec. 307, 49 Stat. 880; 40 U.S.C. 3041.

Subpart 101–45.3—Sale of Personal Property

3. Section 101–45.304–2 is amended by revising subparagraphs (a)(l)(i) and (c)(2)(iii) to read as follows:

§ 101–45.304–2 Negotiated sales and negotiated sales at fixed prices.

(a) * * *

(1) * * *

(i) That has an estimated fair market value not in excess of $15,000;

* * * * *

(c) * * *

(2) * * *

(iii) Prepared for a disposal of personal property having a fair market value of $15,000 or less.

* * * * *

4. Section 101–45.310 is amended by revising the introductory paragraph to read as follows:

§ 101–45.310 Antitrust laws.

Whenever an award is proposed to any private interest of personal property with an estimated fair market value of $3,000,000 or more, or of a patent, process, technique, or invention, irrespective of cost, the selling agency shall promptly notify the Attorney General and the Administrator of General Services, simultaneously, of the proposed disposal and the probable terms and conditions thereof. Upon request by the Attorney General, the agency shall furnish or cause to be furnished to the Attorney General such additional information as the agency may possess concerning the proposed disposition. The Attorney General will advise the agency and the Administrator of General Services within a reasonable time, in no event to exceed 60 days after receipt of such notification, whether, so far as the he can determine, the proposed disposition would tend to create or maintain a situation inconsistent with the antitrust laws. The agency shall not effect disposition until it has received such advice. The agency shall include in the notification transmitted to the Attorney General and the Administrator of General Services, the following information:

* * * * *

Subpart 101–45.47—Reports

5. Section 101–45.4702 is added as follows:

§ 101–45.4702 Negotiated sales reports.

An annual report listing and describing any negotiated disposals of surplus personal property having an estimated fair market value of more than $5,000, other than disposals for

which an explanatory statement has been transmitted (see § 101–45.304–2(c)), shall be submitted by each Federal agency to GSA within 60 calendar days after the close of each fiscal year.

Dated: August 24, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89–21983 Filed 9–19–89; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 424

[BERC–611–IFC]

RIN 0938–AE07

Medicare Program; Physician Involvement in Physical Therapy and Speech Pathology Services

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

ACTION: Interim final rule with comment.

SUMMARY: This interim final rule removes from Medicare conditions of participation the requirements that providers of outpatient physical therapy and speech pathology, and physical therapists in independent practice, accept for treatment only patients referred to them by physicians, and that written plans of care be established and reviewed by physicians. It affects care provided to non-Medicare patients only. The requirements for physician involvement continue to apply for coverage of services provided to Medicare beneficiaries.

The purpose of this rule is to implement section 8424 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647) and to relieve providers of outpatient physical therapy and speech pathology and independent physical therapists of an inappropriate burden imposed by current Federal regulations.

DATES: Effective date: These regulations are effective on January 1, 1989. Comment date: To assure consideration, comments must be mailed or delivered to the appropriate address, as provided below, and must be received no later than 5:00 p.m. on November 20, 1989.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC–611–IFC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

If comments concern information collection or recordkeeping requirements, please address a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron, Desk Officer.

In commenting, please refer to file code BERC–611–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Sheridan Gladhill, (301) 966–4604.

SUPPLEMENTARY INFORMATION:

I. Background

For their outpatient physical therapy services to be covered under Medicare, clinics, rehabilitation agencies, public health agencies, and independent physical therapists must meet certain requirements imposed by section 1861(p) of the Social Security Act (the Act). Section 1861(p) also authorizes the Secretary to impose additional requirements. (The term "outpatient physical therapy services" includes speech pathology services, except for independent therapists.) The existing conditions of participation for clinics, rehabilitation agencies, and public health agencies acting as providers of outpatient physical therapy or speech pathology services, and conditions for coverage of physical therapists in independent practice, are located in Medicare regulations at 42 CFR part 405, Subpart Q. The conditions dealing with a physician's direction and plan of care (§§ 405.1717 and 405.1733) require all patients (Medicare and non-Medicare) accepted for treatment to have an initial referral by a physician, as well as periodic physician visits at least every 30 days.

Section 8424 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647) amended section 1861(p) of the Act that deals with Medicare requirements for outpatient physical therapy services. The amendment specifies that there is no requirement, in the case of non-Medicare patients, for a physical therapist to provide outpatient physical therapy services only to outpatients who are under the care of a physician or in accordance with a plan of care established by a physician. This amendment is effective for services provided after December 31, 1988. Section 1861(p) of the Act still requires physician involvement for coverage of outpatient physical therapy services provided to Medicare beneficiaries. Because of this explicit statutory direction, the requirements of §§ 405.1717 and 405.1733 relating to "under the care of a physician" and "pursuant to a plan of care established by a physician" no longer apply to non-Medicare patients.

Many States now take a more flexible approach in their State practice and licensing laws. States generally do not require periodic physician visits in the context of providing physical therapy, and an increasing number of States are enacting "direct access" laws to permit physical therapy treatment without referral by a physician, typically by amending State licensing law to remove existing physician referral requirements. Thus, under State law, physical therapists increasingly are being authorized to practice without the automatic involvement of physicians.

II. Revisions to Requirements for Physician Involvement in Physical Therapy and Speech Pathology Services

In view of the changes in the statute, professional practice, and State law, we believe it is no longer appropriate to require, as a condition of participation for providers, or as a condition for coverage of the services of independent therapists who serve Medicare patients, that physicians provide the referrals, periodic visits, and direction of treatment for non-Medicare patients. Thus, we are removing those requirements from the conditions of participation at § 405.1717 and the conditions for coverage at § 405.1733. This interim final rule permits a physician, a physical therapist, or a speech pathologist to establish the plan of care and review and results of treatment for non-Medicare patients. It also removes the requirement that the plan be reviewed at least every 30 days for non-Medicare patients. In addition, we are making some minor editorial

revisions to make the text easier to read and understand.

Requirements for physician involvement will continue to be in effect for Medicare patients. The current regulations that implement these requirements, § 410.60(a) (1) and (2), limit Medicare payment for outpatient physical therapy to patients who are under the care of a physician, and to services that are furnished under a written plan of treatment that includes physician reviews of the plan as often as the physician recertifies the continued need for services. (These coverage requirements are based on section 1861(p) (1) and (2) of the Act. Similar requirements for outpatient speech pathology are located in § 410.62.) Payment requirements for physician involvement are set forth in section 1835(a)(2) (C) and (D) of the Act, and additional payment rules requiring physician involvement are found at §§ 424.24 and 424.25 (previously § 405.1634(b)(2) and redesignated as §§ 424.24(c)(2) and 424.25 on March 2, 1988 (53 FR 6638)). Section 424.25 requires that, for Medicare payment, the physician review the plan "at least as often as the physician recertifies the continued need for services," and § 424.24(c)(4) states that recertification is required "at least every 30 days." We have revised § 424.25(e) to state that the plan must be reviewed at least every 30 days, thus making the already existing 30-day time frame for Medicare patients more conspicuous and obviating the need to cross reference to § 424.24(c)(4).

We emphasize that we are making no changes in the requirements for Medicare payment of individual claims. For Medicare beneficiaries receiving outpatient physical therapy and speech pathology services, physician involvement remains a payment requirement (that is, it is still required in order for Medicare to pay for these services). For payment of Medicare claims for outpatient physical therapy and speech pathology services, section 1861(p) of the Act continues to require that each Medicare patient be under the care of a physician, which we continue to interpret as requiring that the patient be seen by the physician at least every 30 days.

Finally, we are making a technical amendment to final regulations published on April 12, 1988 (53 FR 12015). Those regulations redesignated paragraphs (f) through (k) of § 405.1702 as (g) through (l). In making that change, we overlooked the fact that there already was a paragraph (l). We have now redesignated the original paragraph (l) as (m), to correct our oversight.

III. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish a final regulatory impact analysis for any final rule that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: An annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or, significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, we generally prepare a final regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretrary certifies that a final regulation will not have significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all providers, physicians and independent practitioners as small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a metropolitan statistical area.

This final rule with comment period eliminates the requirement for physician referral and periodic visits for the non-Medicare patients of providers furnishing outpatient physical therapy and speech pathology services and independent physical therapists. We believe that the elimination of this requirement for non-Medicare patients merely conforms to current medical practice and will not significantly effect a change in the number of patient referrals.

For this reason, we have determined that the threshold criteria of E.O. 12291 will not be met and a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on a substantial number of small entities and will not have a significant impact on the operations of a substantial number of small rural hospitals. We have, therefore, not prepared a regulatory flexibility analysis or an impact analysis concerning small rural hospitals.

IV. Information Collection Requirements

Sections 405.1717 and 405.1733 of this rule contain information collection requirements subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501). These requirements will be sent to OMB for review, and a notice will be published in the **Federal Register** after approval is obtained. Any comments concerning these requirements can be sent to the individual whose name appears in the address section of the preamble.

V. Waiver of Proposed Rulemaking and Delayed Effective Date

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

In this case, a notice-and-comment procedure is unnecessary because this rule conforms to section 8424 of Public Law 100–647 that removed some requirements for participation in the Medicare program for providers of outpatient physical therapy and physical therapists in independent practice, and extends the same exemption to providers of outpatient speech pathology. Although section 8424 did not specifically address speech pathology, section 1861(p) of the Act states that, "the term 'outpatient physical therapy services' also includes speech pathology services furnished * * * to an individual as an outpatient". The rule also clarifies how often plans of care must be reviewed. Nothing changes with respect to the requirements for coverage and payment of physical therapy and speech pathology for Medicare patients. In addition, this rule will relieve providers of outpatient physical therapy and speech pathology and indpendent therapists of a burden many have long considered to be improper. Non-Medicare patients of these providers and therapists, as well as the physicians of those patients, will be spared requirements for referrals and visits many consider unnecessary. Finally, the

effective date of the statute is January 1, 1989. We find these reasons good cause to waive not only the prior notice-and-comment procedure, but the customary 30-day delay between publication in the Federal Register and the effective date of the final rule as well. Since we are mainly only conforming the regulations to the statute, we are making these amendments effective as of the effective date of the statute, that is, for services furnished beginning January 1, 1989. Should this rule cause any inadvertent substantive changes, we ask that we be advised of this. Comments may be sent to one of the addresses listed in the "Address" section.

VI. List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 424

Assignment of benefits, Physician certification, Claims for payment, Emergency services, Plan of treatment.

For the reasons set forth in the preamble, 42 CFR chapter IV is amended as follows:

A. Part 405, subpart Q is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart Q—Conditions of Participation: Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and/or Speech Pathology Services; and Conditions for Coverage: Outpatient Physical Therapy Services Furnished by Physical Therapists in Independent Practice

1. The authority citation for subpart Q continues to read as follows:

Authority: Secs. 1102, 1861(p), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(p), 1395hh).

2. Technical amendment.

§ 405.1702 [Amended]

The paragraph (1) that is entitled "Vocational specialist" is redesignated as paragraph (m).

3. Section 405.1717 is revised as follows:

§ 405.1717 Condition of participation: Plan of care and physician involvement.

For each patient in need of outpatient physical therapy or speech pathology services there is a written plan of care established and periodically reviewed by a physician, or by a physical therapist or speech pathologist respectively. The organization has a physician available to furnish necessary medical care in case of emergency.

(a) *Standard: Medical history and prior treatment.* The following are obtained by the organization prior to or at the time of initiation of treatment:

(1) The patient's significant past history.

(2) Current medical findings, if any.

(3) Diagnosis(es), if established.

(4) Physician's orders, if any.

(5) Rehabilitation goals, if determined.

(6) Contraindications, if any.

(7) The extent to which the patient is aware of the diagnosis(es) and prognosis.

(8) If appropriate, the summary of treatment furnished and results achieved during previous periods of rehabilitation services or institutionalization.

(b) *Standard: Plan of care.* (1) For each patient there is a written plan of care established by the physician or for—

(i) Physical therapy service, by the physical therapist who furnishes the services; or

(ii) Speech pathology services, by the speech pathologist who furnishes the services.

(2) The plan of care for physical therapy or speech pathology services indicates anticipated goals and specifies for those services the—

(i) Type;

(ii) Amount;

(iii) Frequency; and

(iv) Duration.

(3) The plan of care and results of treatment are reviewed by the physician or by the individual who established the plan at least as often as the patient's condition requires, and the indicated action is taken. (For Medicare patients, the plan must be reviewed by a physician in accordance with § 424.25(e) of this chapter.)

(4) Changes in the plan of care are noted in the clinical record. The attending physician, if applicable, is notified promptly of any changes in the patient's condition or in the plan of care.

(c) *Standard: Emergency care.* The organization provides for one or more doctors of medicine or osteopathy to be available on call to furnish necessary medical care in case of emergency. There are established procedures to be followed by personnel in an emergency that covers immediate care of the patient, persons to be notified, and reports to be prepared.

4. Section 405.1733 is revised as follows:

§ 405.1733 Condition for coverage—Plan of care.

For each patient, a written plan of care is established and periodically reviewed by the individual who established it.

(a) *Standard: Medical history and prior treatment.* The following information is obtained by the physical therapist prior to or at the time of initiation of treatment:

(1) The patient's significant past history.

(2) Diagnosis(es), if established.

(3) Physician's orders, if any.

(4) Rehabilitation goals and potential for their achievement.

(5) Contraindications, if any.

(6) The extent to which the patient is aware of the diagnosis(es) and prognosis.

(7) If appropriate, the summary of treatment provided and results achieved during previous periods of physical therapy services or institutionalization.

(b) *Standard: Plan of care.* (1) For each patient there is a written plan of care that is established by the physician or by the physical therapist who furnishes the services.

(2) The plan indicates anticipated goals and specifies for physical therapy services the—

(i) Type;

(ii) Amount;

(iii) Frequency; and

(iv) Duration.

(3) The plan of care and results of treatment are reviewed by the physician or by the therapist at least as often as the patient's condition requires, and the indicated action is taken.

(4) Changes in the plan of care are noted in the clinical record. The attending physician, if applicable, is notified promptly of any changes in the patient's condition or in the plan of care. (For Medicare patients, the plan must be reviewed by a physician in accordance with § 424.25(e).)

B. Part 424 is amended as set forth below:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for Part 424 is revised to read as follows:

Authority: Secs. 216(j), 1102, 1814, 1815(c), 1835, 1842(b), 1861, 1866(d), 1870 (e) and (f), 1871 and 1872 of the Social Security Act (42 U.S.C. 416(j), 1302, 1395f, 1395g(c), 1395n, 1395u(b), 1395x, 1395cc(d), 1395gg (e) and (f), 1395hh and 1395ii).

2. Section 424.25(e) is revised to read as follows:

§ 424.25 Plan of treatment requirements for outpatient physical therapy and speech pathology services.

* * * * *

(e) *Review of the plan.* (1) The physician reviews the plan as often as the individual's condition requires, but at least every 30 days.

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 2, 1989.

Terry Coleman,

Acting Administrator, Health Care Financing Administration.

Approved: June 21, 1989.

Louis W. Sullivan,

Secretary.

[FR Doc. 89-22170 Filed 9-19-89; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 90 and 94

[DA 89-767]

Private Radio Services; Editorial amendments of Parts 90 and 94 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended parts 90 and 94 to correct typographical errors and omissions, remove references to superceded rules, conform these rules to other rules and revise wording to clarify the affected sections.

EFFECTIVE DATE: June 29, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Roger D. Madden, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7597, or F. Ronald Netro, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau Chief's Order, DA 89-767, adopted June 29, 1989, and released July 14, 1989.

The full text of this Bureau Chief's 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 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.

Summary of Order

On July 14, 1989, the FCC released an Order, DA 89-767, amending parts 90 and 94 of the Commission's Rules to incorporate editorial corrections and clarifications.

By this Order, the FCC corrected typographical errors and omissions, removed references to superceded rules, conformed these rules to other rules and revised wording to clarify the affected sections.

Ordering Clauses

Accordingly, it is ordered, that, under the authority contained in sections 4(i), 5(c)(1) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(c)(1) and 303(r) and in § 0.331(a)(1) of the Commission's Rules, 47 CFR 0.331(a)(1), parts 90 and 94 are amended as set forth below.

It is further ordered that because these amendments clarify existing rules, this Order is effective June 29, 1989.

List of Subjects

47 CFR Part 90

Land mobile radio.

47 CFR Part 94

Microwave radio.

Ralph A. Haller,

Chief, Private Radio Bureau.

Parts 90 and 94 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 90—PRIVATE AND LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

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

§ 90.7 [Amended]

1. Section 90.7 is amended by changing the first word of the definition of average terrain from "Tha" to "The".

§ 90.19 [Amended]

2. Section 90.19(d) is amended by removing the first 154.650 MHz frequency listing and its accompanying class of station notation from the frequency table for Police Radio Service.

3. Section 90.19(f)(5)(ii) is amended by changing "460.5625–460.5125 MHz" to "465.0125–460.5125 MHz", and by changing "465.0125–460.5125 MHz" to "460.0125–465.5125 MHz" in the frequency table.

§ 90.65 [Amended]

4. Section 90.65(d)(4) is amended by changing the word "or" to "of" in the last sentence.

§ 90.75 [Amended]

5. In Section 90.75(c)(25)(viii), the table listing city and airport and the reference coordinates is amended as follows: For Albuquerque, NM, by changing the symbol following the longitude from the lower case Greek letter theta to "W"; for Fort Worth, TX, by changing the longitude from "97° 21′ 44″ W" to "97° 21′ 41″ W"; for Indianapolis, IN, by changing the latitude from "39° 43′ 28″ N" to "39° 43′ 32″ N"and the longitude from "86° 16′ 60″ W" to "86° 17′ 02″ W"; for Kahului, HI, by changing the longitude from "156° 25′ 60″ W" to "156° 25′ 59″ W"; for Pittsburgh, PA, Allegheny County, by changing the latitude from "40° 21′ 17″ N" to "40° 21′ 16″ N"; for Springfield, MA, Barnes Municipal, by changing the longitude from "72° 42′ 58″ N" to "72° 42′ 58″ W"; and for Wichita, KS, by changing the latitude from "37° 38′ 06″ N" to "37° 39′ 00″ N".

§ 90.79 [Amended]

6. Section 90.79(c) is amended by changing the word "indicated" to "indicates".

§ 90.89 [Amended]

7. Section 90.89(a)(4) is amended by inserting a comma after the word "transportation".

§ 90.93 [Amended]

8. Section 90.93(b) is amended by removing the asterisk in the "Limitations" column of the frequency table, for the frequency 152.270 MHz.

§ 90.95 [Amended]

9. Section 90.95(c) is amended by changing the frequency "452.55o" MHz to "452.550" MHz in the table.

§ 90.125 [Amended]

10. Section 90.125(a) is amended by removing the asterisks from the first sentence.

§ 90.135 [Amended]

11.–12. Sections 90.135(d) and (e) are amended by changing the postal area code (zip code) from "17325" to "17326" wherever it appears.

§ 90.157 [Amended]

13. Section 90.157(a) is amended by changing the postal area code (zip code) from "17325" to "17326".

§ 90.177 [Amended]

14. Section 90.177(d)(1) is amended by changing the phrase "(−65.8 dBW/m^2 power flux density assuming a free space characteristic impedance of 120 times pi, or 377, ohms)".

§ 90.179 [Amended]

15. Section 90.179 is amended by changing the last word of paragraph (c) from "license" to "licensee", and by changing "listed" to "list" in the second sentence of paragraph (e).

§ 90.203 [Amended]

16. Section 90.203(b)(5) is amended by changing "(old Part 921)" to "(old Part 91)".

§ 90.205 [Amended]

17. In Section 90.205(b), the table is amended as follows:

a. The references to footnote 6, in row 10, and footnote 7, in row 12, are amended by changing from standard script to superscript.

b. The reference to footnote 11, in row 3, is amended by moving it from the column marked "Frequency range (megahertz)" to the column marked "Maximum output power".

c. Footnote 5 is amended by changing the last letter of the footnote from "P" to "Q".

d. Footnote 6 is amended by changing "Subparts M and S" to "Subpart S."

18. Section 90.207 is amended by changing the word "authorizd" in paragraph (c) to "authorized".

§ 90.209 [Amended]

19. Section 90.209 is amended as follows:

a. In paragraph (c)(2)(iii), change the phrase "at least 43 plus 10 log (mean output power in watts)" to "at least 43 plus 10 Log_{10} (mean output power in watts) decibels".

b. In paragraph (d)(3), change the phrase "At least 43 plus 10 log_{10}" to "At least 43 plus 10 Log_{10}".

c. In paragraph (g)(2), change the phrase (f_d in kHz)" to (f_d in kHz)" and the phrase "50 plus 10 Log_{10} (P)" to "50 plus 10 Log_{10} (P) decibels".

d. In paragraphs (h)(1), (h)(2) and (h)(3), change the word "log" to "Log_{10}" wherever it appears.

e. In paragraph (h)(4), change the phrase "50 plus 10 log (P)" to "50 plus 10 Log_{10} (P) decibels".

f. In paragraph (j)(1), change the phrase "((25/11) fd ^{2})" to "((25/11) f_d^2)".

§ 90.241 [Amended]

20. In § 90.241(c), the paragraph is amended by changing "Subpart P" to "Subpart Q".

§ 90.257 [Amended]

21. Section 90.257 is amended in paragraph (a)(1) to remove footnote 1 and the associated footnote references adjacent to frequencies 72.08, 72.16, 72.24, 72.32, 72.40, 72.96 and 75.64 MHz in the frequency table, and by adding "a" before "half-wave" in paragraph (b)(2).

§ 90.259 [Amended]

22. Section 90.259 is amended by adding the sentence "Operation in the band 216–220 MHz is also secondary to the maritime mobile service and operation in the band 1427–1429 MHz is also secondary to the space operation service (earth-to-space)." following the sentence "Use of these bands is limited to telemetering purposes only and all operation is secondary to Federal Government operations." The sentence "Base stations authorized in this band shall be used to perform telecommand functions with associated mobile telemetering stations." is revised to read "Base stations authorized in these bands shall be used to perform telecommand functions with associated mobile telemetering stations."

§ 90.269 [Amended]

24. Section 90.269(a)(1) is amended by changing the phrase "a 20F9 emission" to "20K00F7W, 20K00F7X, 20K00F8W, 20K00F8X, 20K00F9W or 20K00F9X emissions".

§ 90.273 [Amended]

24. Section 90.273(b) is amended by changing the longitude coordinates for Cleveland, OH from "81°41'5050" West" to "81°41'50" West" and by changing the longitude coordinates for Detroit, MI from "83°02'75" West" to "83°02'57" West".

§ 90.281 [Amended]

25. Section 90.281(b) is amended by changing "licenses" to "licensees".

§ 90.419 [Amended]

26. Section 90.419(e) is amended by changing "(see § 90.241)" to "(see § 90.242)".

27. Section 90.555(b) is amended by adding the frequency 454.000 MHz; by revising the frequencies 461.025 MHz, 466.025 MHz, 468.200 MHz, 469.525 MHz, 469.575 MHz, 469.600 MHz, and 469.675 MHz to read as follows:

§ 90.555 Combined frequency listing.

* * * * *

(b) * * *

Frequency	Services	Special limitations
* * *	* *	
454.000	IP	Oil spill.
* * *	* *	
461.025	IB	110 W.
466.025	IB	110 W, mobile.
* * *	* *	
468.200	IB	110 W, mobile.
* * *	* *	
469.525	IB	110 W, mobile.
469.575	IB	110 W, mobile.
469.600	IB	Do.
* * *	* *	
469.675	IB	Do.
* * *	* *	

28. Section 90.613 is amended by revising the introductory text of the section, by changing "Mobile frequency (MHz)" in the table to "Base frequency (MHz)", and by revising the frequency listings for channels 80, 160, 240 and 320 in the "Table of 896–901/935–940 MHz Channel Designations", to read as follows:

§ 90.613 Frequencies available.

The following table indicates the channel designations of frequencies available for assignment to eligible applicants under this subpart. Frequencies shall be assigned in pairs, with mobile and control station transmitting frequencies taken from the 806–824 MHz band with corresponding base station frequencies being 45 MHz higher and taken from the 851–869 MHz band, or with mobile and control station frequencies taken from the 896–901 MHz band with corresponding base station frequencies being 39 MHz higher and taken from the 935–940 MHz band. Only the base station transmitting frequency of each pair is listed in the table.

* * * * *

TABLE OF 896–901/935–940 MHz CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
* * * * *	
80	936.0000
* * * * *	
160	937.0000
* * * * *	
240	938.0000
* * * * *	
320	939.0000
* * * * *	

29. Section 90.617 is amended as follows:

a. Revise the section heading.

b. The number of channels in parentheses in the heading of Table 4a is changed from 80 to 280, and group numbers 209 in Table 1 and 226 in Table 4A are revised, to read as follows:

§ 90.617 Frequencies in the 809.750–824/854.750–869 MHz, and 896–901/935–940 MHz bands available for trunked or conventional system use in non-border areas.

* * * * *

TABLE 1.—CHANNELS (70 CHANNELS) 806–821/851–866 MHz BAND

Group No.	Channel Nos.
209	209–249–289–329–369

* * * * *

TABLE 4A.—SMR CATEGORY 806–821/851–866 MHZ BAND CHANNELS (280 CHANNELS):

Group No.	Channel Nos.
* * * * *	
226	226–266–306–346–386
* * * * *	

§ 90.621 [Amended]

30. Section 90.621(g)(2)(i) is amended by removing the sentence "The 896–901/935–940 MHz band channel listed in the SMR pool are not available for conventional systems.".

§ 90.629 [Amended]

31. Section 90.629(b) is amended by changing the postal area code (zip code) from "17325" to "17326" wherever it appears.

§ 90.651 [Amended]

32. Section 90.651 is amended by changing the postal area code (zip code) from "17325" to "17326" wherever it appears.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

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

Authority: Sections 4, 303, 48 STAT., as amended, 1066, 1082, 47 U.S.C. 154, 303, unless otherwise noted.

2. The table in § 94.65(g)(1) is amended to add the frequency pair 6528.7/6873.7 MHz as follows:

§ 94.65 Frequencies.

* * * * *

(g) * * *
(1) * * *

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
* * * * *	
6528.7	6873.7
* * * * *	

3. The table in § 94.65(g)(2) is amended by changing the first frequency pair 6525.5/6870.5 MHz to 6525.9/6870.9 MHz, to read as follows:

§ 94.65 Frequencies.

* * * * *

(g) * * *
(1) * * *

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
* * * * *	
6525.9	6870.9
* * * * *	

[FR Doc. 89–22056 Filed 9–19–89; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 5108 and 5152

Acquisition Regulations: Solicitations Provisions and Contract Clauses; Industrial Preparedness Planning

AGENCY: Department of the Army, DOD.
ACTION: Final Rule.

SUMMARY: The Defense Acquisition Regulatory Council approved for a three year test period, the final rule which revises the interim rule published at 54 FR 15474 dated April 18, 1989. The interim rule was a Department of the Army deviation to Defense Acquisition Regulation Supplement (DFARS) sections 208.070(b), 208.070(g) and part 252. There are three changes: (1) Change the definition to delete reference to the DD Form 1519 and to add reference to a Memorandum of Understanding and contractual commitments; (2) change procedure to permit differentiation between planned procedures by the degree of commitment required; and (3) permit the use of a contract clause to accomplish the government's obligation under the cost contract option.

EFFECTIVE DATE: September 20, 1989.
SUPPLEMENTARY INFORMATION:

A. Background

The interim rule solicited comments from interested parties. Comments were received from one respondent. As a result of that comment, the interim rule was revised and changed as follows:

1. The proposed definition of "Mobilization Base Planned Producer" in the interim rule is revised. The revision divides the term into two new categories—"Limited Fee Planned Producer" and "Restricted Specified Base Planned Producer".

2. The proposed definition of "Planned Producer" in the interim rule is renamed "Memorandum of Understanding Planned Producer" and the definition is revised.

3. A clear clause prescription was added.

B. Regulatory Flexibility Act

No comments were received pursuant to paragraph B of the proposed rule which appeared at 54 FR 15474, April 18, 1989. Comments from small entities concerning the affected DFARS part will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite Deviation Case 89–903.

C. Paperwork Reduction Act

This rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq. OMB approval was received for the DD Form 1519 TEST. See FR (54 6565)

List of Subjects in 48 CFR Parts 5108 and 5152

Government procurement, Industrial preparedness planning.

Mary Pearson,
Army AFARS Liaison with the Federal Register.

Therefore, 48 CFR parts 5108 and 5152 are added as follows:

1. The authority citation for 48 CFR Parts 5108 and 5152 read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35 and DOD FAR Supplement 201.301.

PART 5108—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Part 5108 consisting of section 5108.070 is added to read as follows:

5108.070 Definitions.

As used in this section:

"Memorandum of Understanding Planned Producer" means an industrial firm which has indicated its willingness to produce specified military items in a declared national emergency by completing a Memorandum of Understanding with an accompanying Industrial Preparedness Program Production Capacity Survey (DD Form 1519 TEST). The firm is eligible to be solicited for all buys of the item(s) over

$25,000 excluding acquisitions for which competition is restricted to the Restricted Specified Base or Limited Fee Planned Producers in accordance with an approved Justification and Approval.

"Limited Fee Planned Producer" means an industrial firm which is contractually bound by inclusion of AFARS 5152.208–9001 in their contract to maintain production capacity for a negotiated length of time, to conduct subcontractor planning, and to produce specified military items in the event of a declared national emergency or in the event of a declared national emergency or contingencies short of a declared national emergency. The firm is eligible to be solicited for all buys of the item(s) over $25,000 except acquisitions for which competition is restricted to the Restricted Specified Base in accordance with an approved Justification and Approval.

"Restricted Specified Base Planned Producer" means an industrial firm which is contractually bound to maintain production capacity for a negotiated length of time, to conduct subcontractor planning, and to produce specified military items in the event of a declared national emergency, or contingencies short of a declared national emergency. The firm is eligible to be solicited for all buys of the item(s) over $25,000.

(g)(1)(i) Solicitation of Memorandum of Understanding Planned Producers in all acquisitions over $25,000 which are for items for which they have been designated as a Memorandum of Understanding Planned Producer except those restricted to the Restricted Specified Base Planned Producers or Limited Fee Planned Producers in accordance with an approved Justification and Approval.

(ii) Solicitation of Limited Fee Planned Producers in all acquisitions over $25,000 which are for items for which they have been designated as a Limited Fee Planned Producer, except those restricted to the Restricted Specified Base.

(iii) Solicitation of Restricted Specified Base Planned Producers in all acquisitions over $25,000 which are for items for which they have been designated as a Restricted Specified Base Planned Producer.

(g)(4) The clause at 5152.208–9001 is to be used for all contracted planning efforts.

3. Part 5152 consisting of section 5152.208–9001 is added to read as follows:

PART 5152—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

5152.208–9001 Industrial preparedness planning.

As prescribed at 5108–070(g)(4) insert the following clause in full text in contracts where the contractor is designated a Limited Fee Planned Producer.

Industrial Preparedness Planning (XXX1989) (DEV)

(a) The Government designates the contractor a Limited Fee Planned Producer (LFPP) for the item(s) listed in subparagraph (e) below. As an LFPP for the listed items, the contractor will be solicited for all acquisitions over $25,000 which are for the item(s), excluding those for which competition is restricted to the Restricted Specified Base pursuant to an approved Justification and Approval. The Government reserves the right to obtain the item(s) listed from sources other than the commercial marketplace, i.e. by assigning workload to a government-owned facility.

(b) The Contractor agrees to

(i) Update the Production Capacity Survey DD Form 1519 TEST for each item biennially;

(ii) Accomplish subcontractor planning as required in subparagraph (f) below;

(iii) Permit Government personnel access to records, manufacturing process data, plants and facilities in order to verify data on the Production Capacity Survey DD Form 1519 TEST.

(iv) Maintain the surge/mobilization capacity set forth in the Production Planning Schedules during active production of the item and for a period of (negotiated number) years after physical completion of this production contract.

(c) The Contractor is aware of the Government's dependence upon the Production Planning Schedules as a basis to take appropriate measures to ensure the adequacy of the United States Industrial Base. The Contractor also recognizes the Government's intention to convert Production Planning Schedule to contracts on a selective basis, as may be required to minimize materiel shortages during mobilization or to meet contingencies short of a declared national emergency. The Contractor agrees to accept contracts for the item(s) in accordance with the Production Planning Schedules. In the event mobilization or contingencies short of a declared national emergency occur after active production has ceased, and the allocated capacity is in use for the production of other item(s), the Contractor agrees to immediately discontinue production of such other item(s) if necessary to meet production schedules for the planned item(s). The Contractor further recognizes that it is the Government's intention to require that planned subcontractor support will be similarly converted to production subcontracts. Production delivery obligations under this clause are governed by Title I of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, et seq.) (Defense Production Act) and as applicable are within the purview of the Defense Priorities and Allocation System.

(d) For the listed item(s), the Contractor certifies by signing this contract that the plant capacity required to support the mobilization quantity listed on the Production Capacity Survey DD Form 1519 TEST will be dedicated exclusively for the production of that item at mobilization. Furthermore, the Contractor certifies that this capacity is not shared by any other mobilization production requirements.

(e) This clause covers the item(s) listed below:

Item schedule No.	Item nomenclature (sample)
M11111	Fuze, Rocket MK987.
M22222	Machine Gun, MK35.

(f) Subcontractors, suppliers and vendors provide many of the components of military end items. The lack of critical components could be one of the major limitations of the United States' ability to support its Armed Forces warfighting capabilities. Therefore, the Government designated critical components and/or subassemblies in Block #27 of the attached Production Capacity Survey (DD Form 1519 TEST) are those for which the Contractor will conduct vertical planning if not produced in-house. Additional critical components and/or subassemblies may be identified by the Contractor in block #21 of the attached Production Capacity Survey (DD Form 1519 TEST). Foreign producers (other than Canada) will not be considered as a source of supply for critical components. Mandatory vertical (subcontractor) planning will be accomplished by the ASPPO and the Contractor for all critical components identified on the Production Capacity Survey, (DD Form 1519 TEST), by using a sub-tier Production Capacity Survey (DD Form 1519 TEST). The Contractor agrees to coordinate completion of the DD Form 1519 TEST and finalize prime and subcontractor planning with the Armed Services Production Planning Officer (ASPPO) having cognizance over the prime contractor's facility.

(g) After completion of active production of the item(s), the Government will annually, or as changes occur but not more than annually, furnish the Contractor updated technical data for the item. The Contractor agrees to review the technical data and to report to the Government within 60 days of receipt of the data, the impact of technical changes, if any, to the current Production Planning Schedules at no additional cost to the Government.

(h) Retention by the Contractor of the surge/mobilization capacity set forth in the Production Planning Schedules after completion of active production of the planned item(s) will not necessarily require that the Contractor maintain such capacity in idle status. Contractor utilization of capacity allocated for planned production for production of other non-planned items is consistent with the intent of any postproduction provisions of this contract, provided no degradation of surge/mobility

capacity occurs as a result, and provided that the approval of the Contracting Officer with property cognizance is obtained for the use of any Government-owned property.

[FR Doc. 89-21586 Filed 9-19-89; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. T84-01; Notice 20]

RIN 2127-AC96

Final Listing of High Theft Lines for 1990 Model Year; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; technical amendment.

SUMMARY: The purpose of this notice is to (1) report the results of this agency's actions for determining which car lines are subject to the marking requirements of the motor vehicle theft prevention standard for the 1990 model year, and (2) publish a list of those car lines. NHTSA has previously published a list of the car lines that were selected as high theft car lines for prior model years, beginning with the 1987 model year. The list in this notice includes all of the car lines in the previous lists, as well as thirteen new lines that were introduced for the 1990 model year and that have been selected as likely high theft lines. In addition, this listing shows the seven new lines that have standard equipment anti-theft devices and have been granted exemptions from complying with the requirements of the theft prevention standard beginning with the 1990 model year. Two more car lines have been exempted in part and are required to have only their engines and transmissions marked. This final listing for the 1990 model year is intended to inform the public, particularly law enforcement groups, of the car lines that are subject to the marking requirements of the theft prevention standard for the 1990 model year.

EFFECTIVE DATE: This listing applies to the 1990 model year. The amendment made by this notice is effective September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Kurtz, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-4808).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541, sets forth requirements for inscribing or affixing identification numbers onto covered original equipment major parts, and the replacement parts for those original equipment parts, on all vehicles in lines selected as high theft lines.

Section 603(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2023(a)(2); hereinafter "the Cost Savings Act") specifies that NHTSA shall select the high theft lines, with the agreement of the manufacturer, if possible. In accordance with procedures published in 49 CFR part 542, NHTSA previously selected twenty-two of the new 1990 car lines as likely to be high theft lines. The newly selected lines are set forth in this listing, along with all those lines that had been selected as high theft lines and listed in prior model years.

Section 603(d) of the Cost Savings Act (15 U.S.C. 2023(d)) provides that the theft prevention standard must continue to apply to each line that has been selected as a high theft line, unless that line is exempted under section 605 of the Cost Savings Act (15 U.S.C. 2025). Section 605 provides that a manufacturer may petition to have a high theft line exempted from the requirements of part 541, if the line is equipped as standard equipment with an anti-theft device. The exemption is granted if NHTSA determines that the anti-theft device is likely to be as effective as compliance with part 541 in reducing and deterring motor vehicle thefts. Pursuant to this statutory provision, NHTSA has exempted nine of the twenty-two high theft car lines from the parts marking requirements of part 541. Seven of these nine car lines are exempted in full from part 541 and two of the nine are exempted in part.

This notice is intended to inform the public, particularly law enforcement groups, of the high-theft car lines for the 1990 model year, and of those car lines that are exempted from the theft prevention standard for the 1990 model year because of standard equipment anti-theft devices.

The car lines listed as being subject to the standard have been selected as high theft lines in accordance with the procedures of 49 CFR part 542 and section 603 of the Cost Savings Act. Under these procedures, manufacturers evaluate new car lines to conclude whether those new lines are likely to have high theft rates. Manufacturers submit these evaluations and conclusions to the agency, which makes an independent evaluation, and, on a preliminary basis, determines whether the new line should be subject to parts marking. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider these preliminary determinations. Within 60 days of the receipt of the request, NHTSA makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new car lines on the high theft list is the subject of a final determination.

Similarly, the car lines listed as being exempt from the standard have been exempted in accordance with the procedures of 49 CFR part 543 and section 605 of the Cost Savings Act. Therefore, since this revised listing only informs the public of previous agency actions, and does not impose any additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register.**

For the same reasons, NHTSA also finds for good cause that notice and opportunity for comment on this listing are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by Title VI, and is unnecessary after the selections and exemptions have been made in accordance with the statutory criteria.

Regulatory Impacts

NHTSA has determined that this rule listing the car lines that are high theft and are subject to the requirements of the vehicle theft prevention standard and the car lines that are exempt from the standard is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. As noted above, the selections have been made in accordance with the provisions of the Cost Savings Act, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of part 541 for the 1990 model year. Further, this listing does not actually exempt lines from the requirements of part 541; it only informs the general public of all such exemptions. Since the only purpose of this final listing is to inform the public of prior agency action for the 1990 model

year, a full regulatory evaluation has not been prepared.

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this notice is simply to inform the public of those lines that are subject to the requirements of part 541 for the 1990 model year. The agency believes that listing of this information will not have any economic impact on small entities.

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

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

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for part 541 continues to read as follows:

Authority: 15 U.S.C. 2021–2024, and 2026; delegation of authority at 49 CFR 1.50.

2. Appendix A of part 541 is revised, Appendix A–I revised to read as follows, and Appendix A–II is added as follows:

APPENDIX A.—LINES SUBJECT TO THE REQUIREMENTS OF THIS STANDARD

Manufacturer	Subject lines
Alfra Romeo	Milano 161.
Alfa Romeo	Fiat 164. [1]
BMW	3-Car line.
	5-Car line.
	6-Car line.
Chrysler	Chrysler Executive Sedan/Limousine.
	Chrysler Fifth Avenue/ Newport.
	Chrysler Laser.
	Chrysler LeBaron/Town & Country.
	Chrysler LeBaron GTS.
	Chrysler TC.
Chrysler	Chrysler Eagle Talon. [1]
	Chrysler New Yorker Fifth Avenue. [1]
	Dodge Aries.
	Dodge Daytona.
	Dodge Diplomat.
	Dodge Lancer.
	Dodge 600.
	Plymouth Caravelle.
	Plymouth Laser. [1]
	Plymouth Gran Fury.
	Plymouth Reliant.
Ferrari	Mondial 8.
Ferrari	308.
	328.
Ford	Ford Mustang.
	Ford Thunderbird.
	Ford Probe.
	Mercury Capri.
	Mercury Cougar.
	Lincoln Continental.
	Lincoln Mark.
	Lincoln Town Car.
	Merkur Scorpio.
Ford	Merkur XR4Ti.
General Motors	Buick Electra.
	Buick LeSabre.
	Buick Reatta.
	Buick Regal.
	Buick Riviera.
	Cadillac DeVille.
	Cadillac Eldorado.
	Cadillac Seville.
	Chevrolet Nova.
	Chevrolet Lumina. [1]
	Oldsmobile Cutlass Supreme.
	Oldsmobile Delta 88.
	Oldsmobile 98.
	Oldsmobile Toronado.
	Pontiac Bonneville.
	Pontiac Fiero.
	Pontiac Grand Prix.
	Geo Prizm.
	Geo Storm. [1]
Honda	Acura Legend.
	Acura NS-X. [1]
Isuzu	90JZ. [1]
Jaguar	XJ.
	XJ-6.
	XJ-40.
Lotus	M100. [1]
Maserati	Biturbo.
	Quattroporte.
	228.
Mazda	GLC.
	626.
	MX-6.
	MX-5 Miata. [1]
Mercedes-Benz	190 D/E.
	250D-T. [1]
	260 E.
	300 CE.
	300 D/E.
	300 SE.
	300 SL. [1]
	300 TD.
Mercedes-Benz	300 TE.
	300 SDL.
	300 SEL.
	380 SEC/500 SEC.
	380 SEL/500 SEL.
	380 SL.
	420 SEL.
	500 SL. [1]
	560 SEL.
	560 SEC.
	560 SL.
Mitsubishi	Cordia.
	Tredia.
	Eclipse.
Peugeot	405.
Porsche	924S.
Reliant	SS1.
Saab	900.
Subaru	XT.
Toyota	Camry.
	Celica.
	Corolla/Corolla Sport.
	MR 2.
	Starlet.
Volkswagen	Audi Quattro.
	Volkswagen Cabriolet.
	Volkswagen Rabbit.
	Volkswagen Scirocco.
	Volkswagen Corrado.

[1] Lines added in Model Year 1990.

APPENDIX A–I.—HIGH-THEFT LINES WITH ANTITHEFT DEVICES THAT ARE EXEMPTED FROM THE REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Exempted lines
Austin Rover	Sterling
BMW	7-Car line.
Chrysler	Chrysler Conquest.
Chrysler	Imperial. [1]
General Motors	Cadillac Allante.
	Chevrolet Corvette.
Isuzu	Impulse.
Mazda	929.
	RX 7.
Mitsubishi	Galant.
	Starion.
Nissan	Maxima.
	300 ZX.
	Infiniti M30. [1]
	Infiniti Q45. [1]
Porsche	911. [1]
	928. [1]
Saab	9000.
Toyota	Supra.
	Cressida.
Toyota	Lexus LS400. [1]
	Lexus ES250. [1]
Volkswagen	Audi 5000S.
	Audi 100.
	Audi 200.
Volvo	480ES.

[1] Lines exempted from the requirements of part 541 pursuant to 49 CFR part 543 in MY 1990.

APPENDIX A–II.—HIGH THEFT LINES WITH ANTITHEFT DEVICES THAT ARE EXEMPTED IN PART FROM THE PARTS-MARKING REQUIREMENTS OF THIS STANDARD PURSUANT TO 49 CFR PART 543

Manufacturer	Exempted lines	Parts marked
General Motors	Chevrolet Camaro.	Engine, Transmission
	Pontiac Firebird.	Engine, Transmission

[1] These two car lines received partial exemptions from the requirements of part 541 pursuant to 49 CFR part 543 in MY 1999.

Issued on September 15, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-22227 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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 inseason adjustment; notice of prohibition on receipt of groundfish.

SUMMARY: NOAA announces the apportionment of an amount of Alaskan groundfish from non-specific reserve to the domestic annual processing (DAP) portion of the domestic annual harvest (DAH) for Atka mackerel and the prohibition of receipt by foreign processors of Greenland turbot taken in directed fisheries. These actions, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), are necessary to assure optimum use of groundfish in that area. It is a conservation and management measure intended to promote fishery objectives of the North Pacific Fishery Management Council.

DATES: Effective September 16, 1989. Comments will be accepted through October 1, 1989.

ADDRESS: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK. 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675.

Initial specifications for DAH, DAP, and JVP (joint venture processing) for 1989 were published at 54 FR 3605 (January 24, 1989). The same notice established a 15 percent non-specific reserve and then apportioned amounts from that reserve to JVP in order to provide bycatch amounts for JVP fisheries.

Many of the JVP amounts were revised and made effective September 3, 1989 at 54 FR 37112 (September 7, 1989) based on new information about DAP potential. This information indicated some amounts excess to DAP needs in 1989, as well as DAP amounts that could require supplementation. Amounts that may be needed to supplement DAP were retained in the non-specific reserve, to be apportioned to DAP if the need arose later in the year. Amounts in DAP and reserve in excess of DAP requirements were apportioned to JVP.

The same notice indicated that amounts of Pacific cod and rock sole apportioned to JVP were only sufficient to provide bycatch amounts for directed fisheries for other species. It should also have indicated that the 200 mt of Greenland turbot reapportioned from DAP to JVP was only sufficient to provide bycatch amounts for JVP directed fisheries for other species. This notice corrects that omission and announces the prohibition of receipt by foreign processors of Greenland turbot taken in directed fisheries for that species.

Reapportionment

The following action is taken by this notice to reapportion groundfish from the non-specific reserve.

To the Bering Sea/Aleutian Islands (BSAI) DAP

This year marks the first time that DAP fisheries have conducted an intensive fishery for Atka mackerel. Catch rates doubled in August, and at recent catch rates the current quota (17,242 mt) will be reached shortly. In order to extend the DAP fishing season and allow full use of available Atka mackerel stocks, 3,043 mt is apportioned from the non-specific reserve to DAP for Atka mackerel. This apportionment does not result in overfishing of Atka mackerel, as the resulting total allowable catch (TAC) amount is less than its acceptable biological catch (ABC).

TABLE 1.—BERING SEA/ALEUTIAN ISLANDS REAPPORTIONMENTS OF TAC

[Values are in metric tons]

		Current	This action	Revised
Atka mackerel	DAP	17,242	+3,043	20,285
TAC=20,285; ABC=21,000	JVP	0	0	0
Total (TAC=2,000,000)	DAP	1,345,314	+3,043	1,348,357
	JVP	602,089		602,089
	Reserves	52,597	−3,043	49,554

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit domestic fishermen who otherwise would be required to terminate a fishery earlier than necessary. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 15, 1989.

David S. Crestin,

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

[FR Doc. 89-22207 Filed 9-15-89; 1:47 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 181
Wednesday, September 20, 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-178-AD]

Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-8 Series Airplanes, Serial Numbers 1 Through 119

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain de Havilland Model DHC-8 series airplanes, which would require a visual inspection for cracks in the wings' flap track No. 5 fail safe straps, and modification or replacement, if necessary. This proposal is prompted by a recent report of failure of a strap due to improper installation. This condition, if not corrected, could result in an unacceptable degradation of the wing flap support structure and could result in loss of the flaps.

DATES: Comments must be received no later than November 7, 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-178-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Al Maila, Airframe Branch, ANE-172; telephone (516) 791-6220. Mailing address: FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581.

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-178-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Transport Canada, which is the airworthiness authority of Canada, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain de Havilland Model DHC-8 series airplanes. There has been a recent report of fatigue failure of the wings' flap track No. 5 fail safe straps apparently due to improper installation of the lower strap attachment during production. The straps failed because of insufficient free movement at the lower bolt. This condition, if not corrected, could result in an unacceptable degradation of the wing flap support structure and could result in loss of the flaps.

Boeing of Canada, Ltd., de Havilland Division, has issued Service Bulletin Number 8-57-10, dated March 31, 1989, which describes procedures to inspect for cracks in the flap track No. 5 fail safe straps; and modification of strap holes, or replacement, if necessary. Transport Canada has classified this service bulletin as mandatory, and has issued Airworthiness Directive CF-89-02 addressing this subject.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 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 require a visual inspection of the flap track No. 5 fail safe straps, and modification of the strap holes or replacement, if necessary, in accordance with the service bulletin previously described.

It is estimated that 44 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,040.

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing of Canada, Ltd., de Havilland Division: Applies to Model DHC-8 series airplanes, Serial Numbers 1 through 119, certificated in any category. Compliance is required within 500 hours time-in-service or 90 days after the effective date of this AD, whichever occurs first, unless previously accomplish.

To prevent fatigue failure of the flap track No. 5 fail safe straps, accomplish the following:

A. Perform a visual inspection for cracks in the flap track No. 5 fail safe straps, in accordance with de Havilland Service Bulletin No. 8-57-10, dated March 31, 1989. If no cracks are found, modify strap holes in accordance with the service bulletin. If cracks are found, replace prior to further flight with a new fail safe strap, in accordance with the service bulletin.

B. An alternative 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, ANE-170, 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, ANE-170.

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 Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

Issued in Seattle, Washington, on September 8, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-22192 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-169-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which would require relocating the aft equipment/lavatory/galley ventilation fan wire bundles against the frame at station 1540 where they are less vulnerable to damage. This proposal is prompted by reports of charred insulation blankets aft of station 1540. The charred insulation was a result of the wire bundles arcing and burning. This condition, if not corrected, could result in a fire behind the aft cargo compartment wall.

DATES: Comments must be received no later than November 7, 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-169-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 the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest L. Keller, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1937. 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-169-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Two operators reported finding charred insulation blankets aft of station 1540 on Boeing Model 767 series airplanes. The charred insulation was a result of the wire bundles arcing and burning due to damage reportedly caused by maintenance personnel stepping on the wires during work on the portable water tank shear pin. The wire bundles are presently mounted in the bilge area of the airplane several inches behind the cargo bay wall at station 1540. This condition, if not corrected, could result in a fire behind the aft cargo compartment wall. This area lacks fire detection/extinguishing capability.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-

21A0074, dated July 13, 1989, which describes certain modifications necessary to accomplish rerouting the aft equipment/lavatory/galley ventilation fan wire bundles along the frame assembly at station 1540, where they are less vulnerable to damage.

Since this condition may exist or develop on other airplanes of the same type design, an AD is proposed which would require rerouting the aft wire bundles in accordance with the service bulletin previously described.

There are approximately 231 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 106 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The parts required by this proposed AD may be furnished or fabricated from the operators' existing stock or purchased from industry sources; therefore, parts cost is estimated to be negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $16,960.

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 767 series airplanes as listed in Boeing Alert Service Bulletin 767–21A0074, dated July 13, 1989, certificated in any category. Compliance is required within the next 12 months after the effective date of this AD, unless previously accomplished.

To prevent inadvertent damage to aft equipment/lavatory/galley ventilation fan wire bundles and the potential for a fire behind the aft cargo compartment wall, accomplish the following:

A. Reroute the aft equipment/lavatory/galley ventilation fan wire bundles along the frame assembly at station 1540 in accordance with Boeing Alert Service Bulletin 767–21A0074, dated July 13, 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, 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.

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 my 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 the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 8, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–22191 Filed 9–19–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 88–NM–84–AD]

Airworthiness Directives; McDonnell Douglas Model DC–3, DC–3A, DC–3B, DC–3C, DC–3D, Super DC–3S, DST, and (Military) C–41, C–47, C–48, C–49, C–50, C–51, C–52, C–53, C–68, C–84, C–117, R4D Series Airplanes, Including Those Modified for Turbo-Propeller Power

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to all McDonnell Douglas Corporation Models DC–3 series airplanes, including turbo-propeller conversions, that would require supplemental structural inspections and repair or replacement, as necessary, to ensure continued operational safety. This proposal is prompted by a structural reevaluation, which has identified certain significant structural components to inspect for fatigue cracks as these airplanes approach and exceed the manufacturer's original design life. Fatigue cracks in these areas, if not detected and corrected, could result in a compromise of the structural integrity of these airplanes.

DATES: Comments must be received no later than November 7, 1989.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 88–NM–84–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 90846, Attention: P.A. Labor.

This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Don Dirian, Aerospace Engineer, ANM–123L FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90808; telephone (213) 988–5234.

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 88-NM-84-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

A significant number of transport category airplanes are approaching their design life goal. It is expected that these airplanes will continue to be operated beyond this point. The incidence of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed this goal. In order to evaluate the impact of increased fatigue cracking with respect to maintaining the safe design of the McDonnell Douglas Model DC-3 airplane structure, the manufacturer has conducted a structural reassessment of these airplanes using engineering evaluation techniques. The criteria for this reassessment are contained in FAA Advisory Circular (AC) 91-60, "Continued Airworthiness of Older Airplanes."

In response to AC-91-60, McDonnell Douglas Corporation initiated the development of a Supplemental Inspection Document (SID) for the Models DC-3, DC-3A, DC-3B, DC-3C, DC-3D, Super DC-3S, DST, and (Military) C-41, C-47, C-48, C-49, C-50, C-51, C-52, C-53, C-68, C-84, C-117, R4D Series, airplanes, including those modified for turbo-propeller power, hereafter referred to as "Model DC-3." McDonnell Douglas Corporation coordinated their efforts with the operators of Model DC-3 series airplanes. To make maximum use of service experience and existing maintenance programs, Model DC-3 operators have participated with the manufacturer and the FAA in generating the Model DC-3 SID. Advisory Circular 91-60 promotes the preparation and approval of a criteria document for such a program.

McDonnell Douglas Corporation developed criteria and guidelines for: (1) Selecting the major areas of the structure, identified as Principal Structural Elements (PSE), which are candidates for supplemental inspection by using the latest engineering analysis techniques; and (2) analyzing existing inspection programs. This supplemental inspection program evaluates the adequacy of current normal maintenance inspection programs to detect fatigue damage, and provides detailed non-destructive inspection procedures to supplement the operators' existing inspection programs, as necessary.

The program was established upon the evaluation of each PSE selected. A PSE is defined as "that structure whose failure, if it remained undetected, could lead to the loss of the aircraft." Selection of a PSE is influenced by the susceptibility of a structural area, part, or element to fatigue, corrosion, stress corrosion, or accidental damage.

The DC-3 Supplemental Inspection Document, Report No. L26-013, Chapter I, II, III, and IV, addresses five basic issues:

1. Identification of the selected PSE's;
2. When to accomplish inspection;
3. Frequency of inspection;
4. Number of inspections required; and
5. Non-destructive inspection (NDI) procedures for detecting cracks.

The SID inspection program is based on Model DC-3 current usage, durability assessment of the structure using current analysis techniques, and selection of the current non-destructive inspection methods. In order to implement the SID inspection program, each operator must compare its current structural maintenance program to the SID requirements for each PSE. If the current inspections equal or exceed the SID requirements for a given PSE, no supplemental inspections would be required for that PSE under the SID program. However, if the opposite is true, supplemental inspections in the form of more frequent inspections or more sensitive NDI methods, or both, would be necessary in addition to the operator's normal maintenance program.

Since the emphasis of the SID program is on aging aircraft, the inspection program emphasis is on the high time aircraft of each PSE population. The date and flight hours (or landings) at which modification or replacement of a PSE is made, would be required to be reported by the operator to the manufacturer for each applicable airplane by fuselage number and/or factory serial number and PSE number. That particular configuration is then evaluated by McDonnell Douglas Corporation. The inspection threshold and interval will be established and a change, if needed, published in the next revision of the SID.

Inspection Program

The expected fatigue life of each PSE is determined by a demonstrated life, either by service experienced or by analysis. The time when the supplemental inspections are to begin or be completed is determined from the expected fatigue life and crack propagation characteristics of each PSE. All inspections are to be accomplished before the airplane exceeds the fatigue life threshold.

The results of the supplemental inspections are to be reported to the manufacturer on a form provided in the SID. This information will be presented in the periodic revisions.

Effects of Existing Maintenance Programs

In developing the SID, the manufacturer, operators, and the FAA reviewed the operation and maintenance practices of existing maintenance programs with respect to the basic requirements of the SID program. As a result, the McDonnell Douglas Corporation DC-3 SID allows affected operators to take credit for maintenance already being performed, and gives the operators flexibility in revising their maintenance programs to incorporate this supplemental program for their airplanes.

The FAA has reviewed and approved McDonnell Douglas Corporation SID Report No. L26-013, dated May 1988, which describes the structural supplemental inspection procedures of all Model DC-3 series airplanes.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require structural inspections, and repair or replacement, if necessary, in accordance with the SID previously mentioned.

Cost Impact

It is estimated that 600 airplanes of U.S. registry would be affected by this AD. It would require an average of 20 manhours to inspect each PSE, at an

average labor cost of $40 per manhour. Based on these figures, the average initial cost of inspection per PSE would be $800.

Implementation of the required inspections would occur on a staggered basis; that is, each PSE has been assigned an inspection threshold, measured in terms of total accumulated flight hours, at which the inspection process would begin. The first PSE would be required when the airplane's airframe accumulates 20,000 hours, while the 20th (and final) PSE inspection is not required until the airplane accumulates 73,000 hours on the airframe.

Information gathered from the manufacturer and operators indicates that the average Model DC-3 airplane would require approximately 4.38 initial PSE inspections immediately following issuance of this AD. Based on these figures, the average immediate cost impact on this AD on U.S. operators is estimated to be $3,500 per airplane, or $2,100,000 for the U.S. fleet.

Continuing inspection costs will largely depend upon each airplane's logged time in the air and average utilization rate. Sample data has shown that, over the next 15 years, each affected airplane will require between 1.595 and 3.514 additional initial PSE inspections per year, and between 1.784 and 10,838 recurring PSE inspections per year. Based on these figures, the total cost impact of this AD is estimated to be between $4,933 and $9,600 per airplane over the next 15 years or between $2,995,800 and $5,760,000 for the U.S. fleet over the next 15 years. These figures equal an average annual cost impact of between $133 and $640 per airplane.

The FAA's criteria for a "significant impact" is at least $3,700 per year for an unscheduled carrier and $51,800 per year for a scheduled carrier operating small aircraft of fewer than 60 seats, such as the Model DC-3. According to FAA registration records, the mean number of Model DC-3 aircraft registered per owner is about 1.6 and the median number is 1. The largest number of these aircraft currently operating in a single fleet is 12. Because the average annual cost per airplane has been estimated at no more than $640, there can be no significant economic impact on an unscheduled carrier unless:

1. At least ($3,700 / $640) 6 of such aircraft are being operated, or

2. It has a relatively large number of very old aircraft logging an unusually high amount of air time.

For this reason, the proposed rule is not expected to have a significant economic impact, positive or negative, on a substantial number of small entities. 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.

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 significant economc impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC-3, DC-3A, DC-3B, DC-3C, DC-3D, Super DC-3S, DST, and (Military) C-41, C-47, C-48, C-49, C-50, C-51, C-52, C-53, C-68, C-84, C-117, R4D series airplanes, including those modified for turbo-propeller power, certificated in any category. Compliance required as indicated in the body of the AD, unless previously accomplished.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

A. Within one year after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection of the Principal Structural Elements (PSE) defined in Chapter I, Section 6, and Chapter III of McDonnell Douglas Corporation Report No. L26-013, DC-3 Supplemental Inspection Document (SID), dated May 1988. The non-destructive inspection techniques set forth in the SID provide acceptable methods for accomplishing the inspections required by this AD. All inspection results (positive or negative) must be reported to the McDonnell Douglas Corporation in accordance with the instructions of the SID.

B. Cracked structure detected during the inspection required by paragraph A., above, must be repaired or replaced prior to further flight, in accordance with instructions in the SID.

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

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when aproved 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.

The FAA will request **Federal Register** approval to incorporate by reference McDonnell Douglas Corporation Report No. L26-013, DC-3 Supplemental Inspection Document (SID), dated May 1988, identified and described in this proposed directive.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California, 90846, Attention: P. A. Labor. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on September 8, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-22193 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-136-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10-10 and -15 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to be DC–10–10 and –15 series airplanes, which would require reducing the wear limit of the main landing gear brakes to 0.60 inch. This proposal is prompted by dynamometer testing and analysis which revealed that the current wear limit is inadequate to provide enough brake mass to accomplish a maximum energy rejected takeoff (RTO) stop. This condition, if not corrected, could result in the loss of the landing gear brakes.

DATES: Comments must be received no later than November 7, 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–138–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Edward S. Chalpin, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM–131L, FAA Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5335.

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–136–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Dynamometer testing conducted in late 1988 at the manufacturer's test facility has indicated that the main landing gear brake piston on McDonnell Douglas Model DC–10–10 and –15 series airplanes can extend past the end of the cylinder and loss its hydraulic fluid at higher speeds than previously estimated. Loss of the piston and its hydraulic pressure would render the brake unusable. In addition, these tests and further analysis revealed that existing brake wear limits are inadequate to provide enough brake mass to accomplish a maximum energy rejected takeoff (RTO) stop. These conditions, if not corrected, could result in the loss of the main landing gear brakes.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require, within 30 days, a one-time inspection of the main landing gear brakes for a prescribed wear limit of 0.60 inch and replacement, if necessary, with one that is within that limit. The proposed new limit of 0.60 inch was extrapolated from an analysis of a test which was run at a higher limit.

The FAA has determined that adoption of this more conservative and stringent brake wear limit will prevent the piston from extending beyond the end of the cylinder and provide enough brake mass to absorb the kinetic energy of an RTO stop.

There are approximately 134 Model DC–10–10 and –15 series airplanes of the affected design in the worldwide fleet. It is estimated that 115 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 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 $9,200.

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

PART 39—[AMENDED]

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

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

§ 39.13 [AMENDED]

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

McDonnell Douglas: Applies to Model DC–10–10 and –15 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

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

A. Within 30 days after the effective date of this amendment, inspect Goodyear/Loral System Brakes, part numbers 5000709–1, –3, –7, –8 and –9 for wear. Any brake worn more than .60 inch must be replaced, prior to further flight, with one within this limit.

B. Within 30 days after the effective date of this amendment, incorporate the 0.60 inch brake wear limit into the FAA/approved maintenance inspection program.

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, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through and FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Issued in Seattle, Washington, on September 8, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–22194 Filed 9–19–89; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 401

Trade Regulation Rule: Misuse of "Automatic" or Terms of Similar Import as Descriptive of Household Electric Sewing Machines

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: The Federal Trade Commission announces the commencement of a rulemaking proceeding for the trade regulation rule concerning misuse of "automatic" or terms of similar import as descriptive of household electric sewing machines ("Sewing Machine Rule" or "Rule") (16 CFR part 401). The proceeding will address whether or not the Sewing Machine Rule should be repealed. The Commission invites public comment on how the Sewing Machine Rule has affected consumers, businesses and others.

DATES: Written comments and requests for a public hearing will be accepted until October 20, 1989.

ADDRESS: Comments and requests for a public hearing should be submitted to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. All comments and requests should be captioned: "NPR Comment—Sewing Machine Rule."

FOR FURTHER INFORMATION CONTACT: Robert E. Easton, Esq., Special Assistant—Enforcement, (202) 326-3029, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: In an advance notice of proposed rulemaking, the Commission invited public comment upon whether the Rule should remain in effect as it is or be repealed. The Commission received no public comment. The lack of public comment suggests that the issue of repeal is not controversial. Because there may be no need for a public hearing (See Part E—Requests for Public Hearings) no dates are set for submissions of notifications of interest in questioning witnesses and requests to testify at hearings.

Part A—Background Information

This notice is being published pursuant to section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a *et seq.*, the provisions of part 1, subpart B of the Commission's Rules of Practice, 16 CFR 1.7, and 5 U.S.C. 551, *et seq.* This authority permits the Commission to promulgate, modify and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting Commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45.

In essence, the Sewing Machine Rule declares it to be an unfair method of competition and an unfair or deceptive act or practice to use the word "automatic" or similar terms to describe a household sewing machine. The need for the Rule, stated at the time of promulgation, was that use of the word automatic as a description of a sewing machine led consumers "to believe that merely by the twist of a dial or the flick of a lever they will be able to perform complicated sewing operations." (16 CFR part 401 (1988)).

The Sewing Machine Rule was adopted on June 30, 1965 and became effective July 30, 1966.

Part B—Objectives and Analysis

The objective of this proceeding is to determine whether the Sewing Machine Rule should be repealed. To assist the Commission in reaching its determination, the Commission seeks evidence on the following factual issues: (1) Whether there are any benefits from the Sewing Machine Rule and, if so, whether they are greater than its costs; and (2) whether sewing machine technology and marketing have changed so that the Rule is no longer needed.

Those factual issues were previously raised in the ANPR (54 FR 18906, May 3,. 1989). The Commission received no public comments.

The Commission is undertaking this rulemaking proceeding as part of its ongoing program of evaluating trade regulation rules to determine their current effectiveness and impact. Based on information currently in its possession, the Commission believes that the Rule may no longer serve the public interest and is proposing to repeal it.

Part C—Alternative Actions

The Commission does not plan to consider alternatives to repealing the Sewing Machine Rule or leaving it in effect as it is.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Sewing Machine Rule. A comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. The Commission requests that Factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies a number of issues on which it solicits public comment. The identification of issues is designed to assist the public to comment on relevant matters and should not be construed as a limitation on the issues or the public comment.

Questions

(1) Does the Rule currently benefit consumers?

(2) Are current purchasers of sewing machines likely to be deceived by the use of the word "automatic" or terms of similar import used to describe the product?

(3) Would consumers be harmed if the Rule were repealed?

(4) How have improvements in sewing machine technology, such as elimination of the need to change seams, affected the ease of use of sewing machines?

(5) Has industry incurred any direct costs, such as paying for tests, studies, etc., in association with compliance with the Rule?

(6) Has industry incurred any indirect costs, such as loss of sales resulting from foregoing the use of the term "automatic" in promotional literature, in association with compliance with the Rule?

(7) Does the Rule have any impact on small entities?)

(8) Should the Rule be kept in effect or should it be repealed?

Part E—Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like the Commission to schedule public hearings, he or she should address a request for public hearings to Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580 (202-326-3642) as soon as possible but not later than 30 days from publication of this notice.

Part F—Preliminary Regulatory Analysis

The following discussion constitutes the Commission's Preliminary Regulatory Analysis of the proposed Rule pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

A description of the reasons why action is being considered and the objectives of and legal basis for the proposed repeal of the Rule have been explained in Part B of this notice.

Repeal of the Rule would appear to have little or no effect on any small business. Because of changes in technology, it appears that small businesses no longer use the term "automatic" or terms of similar import as a method for marketing electric sewing machines.

Repeal of the Rule would remove any reporting, recordkeeping or other compliance requirements of the Rule.

The Commission is not aware of any existing federal rules which would conflict with, duplicate, or overlap the Rule.

The only significant alternative to repeal of the Rule is to take no action. Because of advances in technology, the Rule no longer appears to serve a meaningful purpose. Under these circumstances, retaining the Rule as is would run counter to the efficiencies of repealing rules that no longer serve a useful purpose.

Part G—Paperwork Reduction Act

The Sewing Machine Rule contains no information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501–3518.

Part H—Proposed Repeal of Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, *et. seq.*, the provisions of part I, subpart B of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, *et seq.*, and the Administrative Procedures Act, 5 U.S.C. 553, *et. seq.*, has initiated a proceeding for the repeal of the trade regulation rule concerning misuse of "automatic" or terms of similar import as descriptive of household electric sewing machines.

List of Subjects in 16 CFR Part 401

Sewing machines, Trade practices.

By Direction of the Commission.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Mary L. Azcuenaga Concerning "Automatic Sewing Maching Rule" Notice of Proposed Rulemaking

I dissent from the Commission's decision to initiate a rulemaking proceeding to repeal the "Automatic Sewing Machine Rule," 16 CFR part 401, because I believe that the costs of repealing the rule outweight the benefits.

There are obvious benefits to repealing rules that contain unnecessary reporting or recordkeeping requirements, affirmative disclosure provisions, or other burdensome features. Less tangible benefits also may come from removing outdated and unnecessary regulations from the Code of Federal Regulations where, as in this case, those regulations do not impose burdens.

Unfortunately, the Commission can delete the regulatory flotsam and jetsam that clutters the CFR only through the cumbersome and expensive procedures of Magnuson-Moss rulemaking. Given our current budgetary constraints, I believe that we should focus our efforts on matters that offer the prospect of a more substantial return on our resource investment.

Dissenting Statement of Commissioner Andrew J. Strenio, Jr. Regarding Automatic Sewing Machine Rule (R011008)

This obsolete rule does not now harm consumers or competition. Repealing the rule would consume staff time that already is stretched thin. Therefore, I oppose initiating this rulemaking both because the tangible costs outweigh any theoretical benefits, and because the agency's scarce resources can be put to much more practical use.

[FR Doc. 89–22181 Filed 9–19–89; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–472–89]

RIN 1545–AN53

Change in Functional Currency and Definition of Weighted Average Exchange Rate

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains proposed Income Tax Regulations relating to the adjustments that are necessary when a taxpayer or a qualified business unit (QBU) changes functional currency and to the definition of weighted average exchange rate. Under the Tax Reform Act of 1986 all Federal income tax determinations are made in a taxpayer's or a qualified business unit's functional currency. These regulations are necessary to provide guidance to taxpayers and QBUs which change functional currencies, in order to determine United States tax liabilities. In addition, these regulations provide guidance to taxpayers and QBUs as to the calculation of the appropriate weighted average exchange rate. In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to these matters. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: These regulations are proposed to be effective for taxable years beginning after December 31, 1986. Written comments and request for a public hearing must be delivered or mailed by November 20, 1989.

ADDRESS: Send comments and requests for a public hearing to: Internal Revenue Service, (Attention: CC:CORP:T:R, INTL–472–89)), Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Carol Murphy of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, (Attention: CC:CORP:T:R (INTL–962–86)) (202–566–3160, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add new §§1.985–5T, 1.985–6T and 1.989(b)–1T. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR part 1. For the text of the temporary regulations, see [T.D. 8263] published in the Rules and Regulations portion of this issue of the **Federal Register.**

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805 (f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register.**

Drafting Information

The principal author of these regulations is David Rosenberg of the Office of Associate Chief Counsel (International) within the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations.

List of Subjects in 26 CFR 1.861–1—1.997–1

Income taxes, Corporate deductions, Aliens, Exports, DISC, Foreign Investments in U.S., Foreign tax credit, FSC, Sources of income, U.S. investments abroad.

Proposed Amendments to the Regulations

The temporary regulations, [T.D. 8263], published in the Rules and Regulations portion of this issue of the **Federal Register**, are hereby also proposed as final regulations under sections 985 and 989 of the Internal Revenue Code of 1986.

Fred T. Goldberg,

Commissioner of Internal Revenue.

[FR Doc. 89–21651 Filed 9–19–89; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 602

[CC:CO–69–87]

RIN 1545–AK26

Use of Pre-Change Tax Attributes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the rules and regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is adding temporary regulations pertaining to section 383 of the Internal Revenue Code of 1986 ("Code"), which was amended by the Tax Reform Act of 1986. The temporary regulations provide guidance under section 383 relating to the manner and method of absorbing the section 382 limitation with respect to certain capital losses and excess credits after there has been an ownership change of a corporation within the meaning of section 382. The temporary regulations also contain amendments to the temporary regulations under section 382. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be mailed by November 20, 1989. The proposed regulations would apply generally to any ownership change, as defined under section 382, occurring after December 31, 1986.

ADDRESS: Send comments or requests for a public hearing to: Internal Revenue Service, Attention: CC:CORP:T:R [CO–69–87], Room 4429, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Lori J. Jones of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, (202) 566–3205 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies to the Internal Revenue Service, ATTN: IRS Reports Clearances Officer TR:FP, Washington, DC 20224.

The collections of information in this regulation are in 26 CFR 1.382–2T(a) and 1.383–1T(j). This information is required by the Internal Revenue Service to help ensure that loss corporations report the proper amount of certain capital losses and excess credits on their income tax returns. The information will be used by the Internal Revenue Service to more readily verify compliance with sections 382 and 383.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Estimated total annual reporting burden: 247,500 hours.

The estimated annual burden per respondent varies from 6 minutes to 30 minutes, depending on individual circumstances, with an estimated average of 18 minutes.

Estimated number of respondents: 750,000.

Estimated frequency of respondents: annually.

Background

Temporary regulations published in the rules and regulations portion of this issue of the **Federal Register** add temporary regulations §§ 1.383–1T and 1.383–2T to part 1 of title 26 of the code of the Federal Regulations ("CFR") and amend § 1.382–2T of that part. The final regulations would be added to part 1 of title 26 of CFR. The final regulations would provide guidance under sections 382 and 383 relating to the manner and method of absorbing the section 382 limitation with respect to certain capital losses and excess credits after there has been an ownership change of a corporation within the meaning of section 382. Sections 382 and 383 of the code were amended by section 621 of the Tax Reform Act of 1986 (Pub. L. No. 99–514, 100 Stat. 2085). Section 382 was further amended by section 10225 of the Revenue Act of 1987 (Pub. L. No. 100–203; 101 Stat. 1330–413) and by sections 1006, 4012, and 5077 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100–647). For the text of the temporary regulations, see T.D. [8264] published in the rules and regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the added regulations.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held upon written request by any person who has submitted written comments. If a public hearing is held, notice of time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Lori J. Jones, Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations in matters of both substance and style.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

[FR Doc. 89-22107 Filed 9-19-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 143, and 149

46 CFR Parts 107, 108, and 109

[CGD 79-059]

RIN 2115-AA34

Offshore Cranes

AGENCY: Coast Guard, DOT.

ACTION: Propose rule; notice of withdrawal.

SUMMARY: On February 14, 1986, a notice of proposed rulemaking (NPRM) concerning design standards and operator qualification for cranes on Outer Continental Shelf (OCS) facilities, mobile offshore drilling units (MODU's), and deepwater ports was published in the Federal Register (51 FR 5547). This rulemaking is being withdrawn because responsibility for offshore crane design and operator qualification on OCS facilities has been transferred to the Minerals Management Services of the Department of the Interior. That portion of the rulemaking concerning cranes on MODU's is being incorporated into Coast Guard Docket 83-071a (RIN 2115-AB88), which is a major revision of the MODU regulations. Cranes on deepwater ports may be addressed in a separate rulemaking.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: LCDR Stephen L. Johnson, Ship Design Branch, (202) 267-0173.

SUPPLEMENTARY INFORMATION: LCDR Stephen L. Johnson, Ship Deisgn Branch, (202) 267-0173.

Dated: September 12, 1989.

J. D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-22248 Filed 8-19-89; 8:45 a.m]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted area, Cooper River and Tributaries, Charleston, SC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to expand the existing restricted areas in the Cooper River and its tributaries in the vicinity of the Charleston Naval Base and the Naval Weapons Station in Charleston and Berkely Counties, South Carolina. The purpose of these proposed changes is to provide effective security in the area of the Charleston Naval Base and the Charleston Naval Weapons Station.

DATE: Comments must be received on or before October 20, 1989.

ADDRESS: HQUSACE, CECW-OR, Washington, DC 20315-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Eppard at (202) 272-1783 or Ms. Tina Hadden at (803) 724-4613.

SUPPLEMENTARY INFORMATION: The Commander, Naval Base, Charleston, South Carolina, has requested that the Corps of Engineers amend the regulations in 33 CFR 334.460 to expand the existing restricted area in the Cooper River. The restricted area generally borders the Charleston Naval Base and the Naval Weapons Station, Charleston and Berkely Counties, South Carolina. The following is a brief description of the proposed changes to the regulations.

1. Area (a)(1) is revised to include the reach of Noisette Creek upstream to the property line of the Charleston Naval Base. The regulations for areas (a)(1) and (a)(2) remain the same.

2. Area (a)(3) has been added to include the eastern shoreline of Shipyard Creek. The new regulation will allow the area to be restricted when the Commander of the Charleston Naval Base determines it necessary for security or other military operations.

3. Areas (a)(4) and (a)(6) have been extracted from existing area (a)(1), a totally restricted area. These new regulations would allow area (a)(6) to be restricted when deemed necessary by the Commander of the Charleston Naval Base for purposes of security or other military operations. The regulations for area (a)(4) remain the same.

4. Areas (a)(2) and (a)(5) and the regulations affecting them remain unchanged.

5. Area (a)(7) has been added to include that portion of Goose Creek from its confluence with the Cooper River upstream to the Seaboard Coastline Railway trestle. Area (a)(11) has been added to include Foster Creek from its confluence with the Black River upstream to its terminus. These area have new regulations which will allow these areas to be closed in the interest of national security at the discretion of the Commanding Officer of the Charleston Naval Base, until such time as he determines such restriction may be terminated.

6. Area (a)(8) remains unchanged.

7. Area (a)(9) has been added to include the western shoreline of the Cooper River in the vicinity of the Naval Weapons Station and area (a)(10) has been added to include the area surrounding the USS ALAMOGORDO. These areas have new regulations which will prohibit vessels and other watercraft from getting closer than one hundred (100) yards of the shoreline of the Cooper River in those area devoid of vessels or man-made structures. In those areas where vessels or man-made structures are present the restricted area will be 100 yards from the shoreline or 50 yards beyond those vessels or other man-made structures, whichever is greater.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of E.O.12291 do not apply. I hereby certify that if adopted, this rule will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), transportation, danger zones. Accordingly, the Corps of Engineers proposes to amend 33 CFR 334.460 as set forth below.

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 226; (33 U.S.C.1) and 40 Stat. 892; (33 U.S.C. 3)

2. Section 334.460 is revised as follows:

§ 334.460 Cooper River and tributaries at Charleston, SC: restricted areas.

(a) The areas:

(1) That portion of the Cooper River beginning on the west shore at latitude 32°52'37", longitude 79°58'06", thence to latitude 32°52'37", longitude 79°58'03", thence to latitude 32°52'27", longitude 79°58'01", thence to latitude 32 52'06", longitude 79°57'54" at the west channel edge, thence to latitude 32°51'48.5", longitude 79°57'41.5", thence to latitude 32°51'33", longitude 79°57'41.27", thence to latitude 32°51'19", longitude 79°57'05", thence to latitude 32°51'01", longitude 79°56'07", thence to latitude 32°50'50", longitude 79°56'02", thence to latitude 32°50'48", longitude 79°56'07" on the west shore, thence north along the shoreline including the reach of Noisett Creek to the eastern boundary of the Navy Base to the beginning point at the west shore at latitude 32°52'37", longitude 79°58'06".

(2) The reach of Shipyard Creek upstream from a line 300 feet from and parallel to the upstream limit of the Improved Federal Turning Basin.

(3) That portion of the interior Shipyard Creek commencing at latitude 32°49'50", longitude 79°56'10", being a point at the southern tip of the shoreline where the northern shore of Shipyard Creek joins the Cooper River, thence going along the northern shore of Shipyard Creek to the southern portion of the existing restricted area, (a)(2); thence along said line being 300 feet from and parallel to the upstream limit of the Improved Federal Turning Basin for a distance of 15 feet, thence to the most northerly point of the Improved Federal Turning Basin, thence along the northeastern edge for the Improved Federal Turning Basin to the northeast edge of the main channel of Shipyard Creek to a point lying in the mouth of Shipyard Creek where it reaches the Cooper River at the northeast edge of the main channel of Shipyard Creek and longitude 79°56'10", thence to the beginning point at latitude 32°49'50", longitude 79°56'10".

(4) That portion of the Cooper River surrounding Pier YANKEE beginning at a point on the west shore of the Cooper River at latitude 32°50'00", longitude 79°56'10.5", thence to latitude 32°50'00", longitude 79°55'55", thence to latitude 32°49'54", longitude 79°55'55", thence to latitude 32°49'50", longitude 79°56'10", thence north along the shore to the beginning point at the west shore of the Cooper River at latitude 32°50'00", longitude 79°56'10.5".

(5) That portion of the Cooper River beginning on the west channel edge at latitude 32°52'06", longitude 79°57'54", thence to the east shore at latitude 32°52'13", longitude 79°57'30", thence along the eastern shore to latitude 32°51'30", longitude 79°56'15.5", thence to latitude 32°51'01", longitude 79°55'50", thence to latitude 32°50'32", longitude 79°56'03.5", thence to latitude 32°51'01", longitude 79°56'07", thence to latitude 32°51'19", longitude 79°57'05", thence to latitude 32°51'33", longitude 79°57'27", thence to latitude 32°51'48.5", longitude 79°57'41.5", thence to the beginning point at the west channel edge at latitude 32°52'06", longitude 79°57'54".

(6) That portion of the Cooper River beginning on the west shore at latitude 32°50'48", longitude 79°56'07", thence to latitude 32°50'50", longitude 79°56'02", thence to latitude 32°50'32", longitude 79°55'55", thence to latitude 32°50'00", longitude 79°55'55", thence to latitude 32°50'00", longitude 79°56'10.5" on the west shore, thence along the shoreline to the beginning point on the west shore at latitude 32°50'48", longitude 79°56'07".

(7) That portion of Goose Creek beginning at a point on the west shore of Goose Creek at its intersection with the Cooper River at latitude 32°54'32", longitude 79°57'04"; thence proceeding along the western shoreline of Goose Creek for approximately 6.9 miles to its intersection with the Seaboard Coastline Railroad at latitude 32°55'34", latitude 79°59'30"; thence in a northwesterly direction along the Seaboard Coastline Railroad to latitude 32°55'37", longitude 79°59'32"; thence proceeding along the eastern shoreline of Goose Creek in a southeasterly direction to latitude 32°54'33" longitude 79°56'59" thence back to 32°54'32", longitude 79°57'04".

(8) That portion of the Cooper River, extending from the mouth of Goose Creek, to a point approximately five-hundred (500) yards north of Red Bank Landing, a distance of approximately 4.8 miles, and the tributaries to the Cooper River within the area enclosed by the following arcs and their intersections:

(i) Radius=8255' center of radius, latitude 32°55'45", longitude 79°45'23".

(ii) Radius=3790' center of radius, latitude 32°55'00", longitude 79°55'41".

(iii) Radius=8255' center of radius, latitude 32°55'41", longitude 79°56'15".

(iv) Radius=8255' center or radius, latitude 32°56'09", longitude 79°56'19".

(9) That portion of the Cooper River beginning on the western shoreline at latitude 32°54'37", longitude 79°57'01"; thence proceeding along the western shoreline in a northerly direction for approximately 4.8 miles to latitude 32°57'32, longitude 79°55'27"; thence in a southerly direction for approximately 100 yards to latitude 32°57'29", longitude 79°55'23", thence in a southwesterly direction, paralleling the shoreline to latitude 32°56'48", longitude 79°55'48", thence in an easterly direction for approximately 50 yards to latitude 32°57'49", longitude 79°55'46", thence in a southerly direction, paralleling the shoreline, to latitude 32°56'40", longitude 79°55'40"; thence in a westerly direction for approximately 50 yards to latitude 32°56'39", longitude 79°55'42"; thence in a southwesterly direction, paralleling the shoreline, to latitude 32°56'15", longitude 79°56'07"; thence in a southwesterly direction to latitude 32°56'05", longitude 79°56'17"; thence in a westerly direction, for approximately 50 yards to latitude 32°56'11", longitude 79°56'19"; thence in a southerly direction, paralleling the shoreline to latitude 32°55'45", longitude 79°56'19"; thence in a southeasterly direction to latitude 32°55'42", longitude 79°56'13"; thence in a southeasterly direction, parallel the shoreline, to latitude 32°55'18", longitude 79°55'55"; thence in a southwesterly direction to latitude 32°55'16", longitude 79°56'00"; thence in a southwesterly direction paralleling the shoreline to latitude 32°54'35", longitude 79°56'57", thence back to latitude 32°54'37", and longitude 79°57'01".

(10) That portion of the Cooper River beginning at a point near the center of the Cooper River at latitude 32°55'03", longitude 79°55'42"; thence proceeding in an easterly direction to latitude 32°55'03", longitude 79°55'33"; thence in a southerly direction to latitude 32°54'52", longitude 79°55'33"; thence in a westerly direction to latitude 32°54'53", longitude 79°55'42"; thence in a northerly direction to latitude 32°55'03", longitude 79°55'42".

(11) That portion of Foster Creek beginning at a point on the southern shoreline of Foster Creek at its intersection with Back River at latitude 32°58'30", longitude 79°56'33"; thence proceeding along the southern shoreline to the terminus of Foster Creek; thence back down its northern shoreline of Foster Creek to latitude 32°58'34", longitude 79°56'34"; thence back to latitude 32°58'30", longitude 79°56'33".

(b) The regulations:

(1) Unauthorized vessels and other watercraft shall not enter at any time, the restricted areas described in paragraph (a)(1), (a)(2), and (a)(4).

(2) Vessels and other watercraft entering the restricted area described in paragraph (a)(5) of this section, shall proceed at normal speed and under no circumstances anchor, fish, loiter, or photograph until clear of the restricted area.

(3) Vessels and other watercraft may be restricted from using any or all of the area described in paragraphs (a)(3), and (a)(6) of this section when deemed necessary and appropriately noticed by Commander, Naval Base, Charleston, SC, for security or other military operations without first obtaining escort or other approval from Commander, Naval Base, Charleston.

(4) Vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the restricted area described in (a)(8) above, shall proceed at normal speed, and under no circumstances anchor, fish, loiter, or photograph in any way until clear of the restricted areas.

(5) Vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the area described in (a)(9) and (a)(10) above, are prohibited from entering within one-hundred (100) yards of the west bank of the Cooper River, in those portions devoid of any vessels or man-made structures. In those areas where vessels or man-made structures are present, the restricted area will be 100 yards from the shoreline or 50 yards beyond those vessels or other man-made structures, whichever is greater. This includes area (a)(10).

(6) In the interests of National Security, Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, may, at his/her discretion, restrict passage of watercraft and vessels in the areas described in paragraph (a)(7) and (a)(11) until such time as he/she determines such restriction may be terminated.

(7) All restricted areas will be marked with suitable warning signs.

(8) The regulations described in paragraphs (b)(1), (2) and (3) of this section shall be enforced by Commander, Naval Base, Charleston, and such agencies as he/she may designate.

(9) The regulations described in paragraphs (b)(4), (5) and (6) of this section shall be enforced by the Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, and such agencies as he/she may so designate.

(10) It is understood that none of the restrictions herein will apply to properly marked Federal vessels performing official duties. It is further understood that Federal employees will not take photographs from within the above described restricted areas.

Dated: September 7, 1989.

Approved:

Wilbur T. Gregory, Jr.,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 89-22233 Filed 9-19-89; 8:45 am]

BILLING CODE 3710-92-M

Notices

Federal Register
Vol. 54, No. 181
Wednesday, September 20, 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

Forms Under Review by Office of Management and Budget

September 15, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; and (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

• Food and Nutrition Service
Cash in Lieu of Donated Foods
Recordkeeping; Annually
State or local governments; Federal agencies or employees; Non-profit institutions; 184 responses; 60,630 hours; not applicable under 3504(h)
Diane Berger, (703) 756–3660

• Food and Nutrition Service
Model Food Stamps, Periodic Reporting, Notice of Late/Incomplete Reporting, Adequate Notice, Sponsored Aliens, Duplication Participation, and Disqualified Recipient Report
FNS–385, 386, 387, 394, 396, 437, 439, 441, 442, and 524
Recordkeeping; On occasion; Monthly; Quarterly; Semi-annually; Annually
Individuals or households; State or local governments; 89,336,713 responses; 17,616,471 hours; not applicable under 3504(h)
Paul Jones, (703) 756–3476

New Collection

• Food Safety Inspection Service
Verified Residue Control Program (9 CFR 324.1 thru 10 and 381.330 thru 9)
Recordkeeping; On occasion
Businesses or other for-profit; Small businesses or organizations; 59 responses; 161 hours; not applicable under 3504(h)
Roy Purdie, Jr., (202) 447–5372

• National Agricultural Statistics Service
Water Quality Survey
On occasion
Farm: 1,925 responses; 1,283 hours; not applicable under 3504(h)
Larry Gambrell, (202) 447–7737

• Economic Research Service
Survey of State Farm Credit Program
Annually
State or local governments; 200 responses; 72 hours; not applicable under 3504(h)
Patrick J. Sullivan, (202) 786–1719

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 89–22250 Filed 9–19–89; 8:45 am]

BILLING CODE 3410–01–M

Commodity Credit Corporation

Determinations With Regard to the 1990 Wheat Program

AGENCY: Commodity Credit Corporation, USDA.

SUMMARY: The purpose of this notice is to affirm the determinations made by the Secretary of Agriculture in accordance with the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation Character Act, as amended (the "Charter Act"), with respect to the 1990 Price Support and Production Adjustment Program for Wheat.

EFFECTIVE DATE: September 19, 1989.

ADDRESS: Bruce R. Weber, Director, Commodity Analysis Divison, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Craig Jagger, Commodity Analysis Division, USDA–ASCS, Room 3740, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7923.

The Final Regulatory Impact Analysis describing the options considered in developing this notice of determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major." It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this notice applies are:

Titles	Numbers
Commodity Loans and Purchases	10.051
Wheat Production Stabilization	10.058

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation (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 these determinations.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

General Information

General descriptions of the statutory basis for the determinations that are set

forth in this notice are set forth at 54 FR 13706 (April 5, 1989).

Comments received during the specified comment period are summarized below for the 1990 Wheat Program.

Wheat Comments. A total of 65 respondents commented on the 1990 Wheat Program determinations. Twenty-two of the respondents were individual producers and 19 were producer organizations.

With respect to the specific comments for the 1990 Wheat Program the following are noted:

(a) *Acreage Reduction Program (ARP):* Of the 32 respondents who commented on the acreage reduction level, 14 favored an ARP of 5 percent or less, 11 favored an ARP between 5 and 10 percent, and 7 favored an ARP greater than 10 percent. The announced ARP level of 5 percent is 15 percentage points below the statutory maximum. The 1949 Act provides that an ARP of less than 20 percent may be implemented if the Secretary determines that a carryin of less than 1 billion bushels of wheat will exist on June 1, 1990. When the ARP was announced, this carryin had been estimated at 500 million bushels. Based upon this estimate, the Secretary announced an ARP of 5 percent. He determined that the ARP level should be lowered from the 1989 level of 10 percent so that carryover stocks could increase while still allowing export demand to be met. This ARP level sends a signal to our competitors that the U.S. also will not idle large amounts of acreage in order to support the world price level for wheat. It also signals to our domestic and foreign customers that the U.S. will be a reliable supplier.

(b) *Paid Land Diversion (PLD) Program:* One respondent favored a PLD and 8 opposed such a program. A PLD will not be implemented because the ARP level was determined to be sufficient to adequately manage stock levels.

(c) *Marketing Loan:* Three respondents favored the implementation of a marketing loan program, 10 opposed its implementation and 2 respondents said to implement "if needed." A marketing loan will not be implemented because the announced 1990 loan is at a level sufficient to maintain U.S. competitiveness in world wheat markets without additional measures.

(d) *Inventory Reduction Program (IRP):* Three respondents opposed the implementation of the IRP and no respondent favored its implementation.

Implementation of the IRP is dependent upon implementation of a marketing loan. Because a marketing loan will not be implemented, the IRP will not be implemented.

(e) *Premium and Discount Schedules on Price Support Loans:* Three respondents indicated support for premium and discount schedules on price support loans. No respondent opposed such schedules.

This notice affirms the following determinations previously made and announced by the Secretary on May 31, 1989, with respect to the 1990 Wheat Program.

Determinations

1. *Loan and Purchase Level.* In accordance with section 107D(a)(1) of the 1949 Act, the price support loan and purchase level per bushel shall be $1.95.

2. *Established (Target) Price.* In accordance with section 107D(c)(1)(G) of the 1949 Act, the established ("target") price per bushel shall be $4.00.

3. *Acreage Reduction/Paid Land Diversion Program.* In accordance with section 107D(f)(1)(D) of the 1949 Act, the ARP has been established with respect to the 1990 crop of wheat at 5 percent. Accordingly, producers will be required to reduce their 1990 acreage of wheat for harvest from the crop acreage base established for wheat for a farm by at least this established percentage in order to be eligible for wheat price support loans, purchase, and payments. In accordance with 107D(f)(5)(A) of the 1949 Act, it has been determined that there will be no paid land diversion program for the 1990 crop of wheat.

4. *Set-Aside Program.* In accordance with sections 107D(f) (1) and (3) and 105(f) (1) and (3) of the 1949 Act, it has been determined that there will be no set-aside program for the 1990 crop of wheat.

5. *Marketing Loan for Wheat.* In accordance with section 107D(a)(5) of the 1949 Act, it has been determined that a marketing loan will not be implemented for the 1990 crop of wheat. The price support loan and purchase levels applicable to wheat have been lowered to the maximum extent possible and it has been determined that this action is sufficient to maintain a competitive market position.

6. *Loan Deficiency Payments.* In accordance with section 107D(b) of the 1949 Act, it has been determined that, with respect to the 1990 crop of wheat, a loan deficiency payment will not be available. Since the marketing loan program is not being implemented, loan deficiency payments will not be available.

7. *Inventory Reduction Program.* In accordance with section 107D(g) of the 1949 Act, it has been determined that the IRP will not be implemented for the 1990 crop of wheat. Since the marketing loan program is not being implemented, inventory reduction payments will not be available.

8. *Other Cost Reduction Options and Contract Modifications.* In accordance with section 1009 of the Food Security Act of 1985, the Secretary reserves the right to initiate later cost reduction options at a later date. These options may include reopening or changing a program contract entered into by producers if producers voluntarily agree to the change.

Authority: 7 U.S.C. 1308a, 1421, 1441, 1441–1, 1444–2, 1444–b, 1445b–2, 1445b–3, 1445b–4, 1445d, 1445e, 1464 and 1465 and 15 U.S.C. 714b and 714c.

Signed at Washington, DC on September 12, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–22226 Filed 9–19–89; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Recreation Residence Authorizations

AGENCY: Forest Service, USDA.

ACTION: Advance notice of proposed policy; request for comment.

SUMMARY: The Forest Service hereby gives notice of its intent to reconsider its policy for administering privately-owned recreation residences on National Forest System lands. The current policy was adopted August 16, 1988 (53 FR 30924) and subsequently appealed under the Agency's administrative appeal procedures (36 CFR 211.18). In rendering his decision on the appeal, the Assistant Secretary of Agriculture for Natural Resources and Environment stayed certain provisions of the final policy, designated the remaining features as interim policy, and directed the Chief to review and reconsider the entire policy (54 FR 23499, June 1, 1989). In response, the Forest Service has developed alternative approaches to those portions of the policy stayed by the Assistant Secretary's decision. The agency hereby requests public comment on those provisions and on the options to those provisions that the agency has identified. The agency will consider comments received in formulating a new proposed policy.

DATE: Comments must be received by November 20, 1989.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2720), Forest

Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Questions about this policy should be addressed to Betty J. Blair, Lands Staff, (703) 235–2160.

SUPPLEMENTARY INFORMATION: On August 16, 1989 (53 FR 39024), the Forest Service adopted final policy and procedures for administering special use permits that authorize privately-owned recreation residences on National Forest System lands. The policy established a new procedure for calculating annual fees and gave direction on tenure and renewability of the permits, describing procedures to be followed when the residence site was needed for a higher public purpose.

This policy was appealed to the Secretary of Agriculture on September 15, 1988. In general, the appellants alleged that the process by which this policy was developed was flawed in that provisions of the policy exceeded statutory limitations on recreation residence use of the National Forests and that the appellants and the public were adversely affected by the policy.

In a decision dated February 15, 1989, the Assistant Secretary of Agriculture for Natural Resources and Environment remanded the policy to the Forest Service for restudy and reformulation and stayed the implementation of certain provisions of the policy as follows: (1) Those nonrenewal provisions relating to or requiring a showing of higher public purpose; (2) those provisions requiring automatic permit renewal 10 years prior to expiration unless nonrenewal has been established; (3) those provisions requiring the offering of "in-lieu" lots to permittees who have received notice of nonrenewal or termination; and (4) those provisions weighted against consideration of commercial uses for sites when nonrenewal of the recreation residence use is contemplated. In addition, the Assistant Secretary required that the remaining features of the final policy be designated as interim policy pending its reformulation following all applicable process requirements. The reformulation period was established by the decision as 18 months.

The policy adopted August 16, 1988, was issued as direction to Forest Service personnel through amendments and interim directives to Forest Service Manual Chapters 2340 and 2720 and Forest Service Handbook 2709.11—Special Uses Handbook. On June 1, 1989, the Forest Service gave notice that the direction in FSM 2340 and 2720 had been revised to remove those provisions stayed by the Assistant Secretary and that the remaining portions of the policy were designated as interim policy in compliance with the Assistant Secretary's decision (54 FR 23499). The interim policy shall expire no later than September 30, 1990.

The Forest Service has begun restudy and reformulation of the overall recreation residence policy and through this notice is seeking the advice of the public on those portions of the adopted policy stayed by the Assistant Secretary's decision. Based on consideration of comments and advice received, the Agency will publish for public review and comment a draft reformulated policy in the Fall of 1989. Following analysis of public comment on the draft policy, a final policy will be published in the **Federal Register** with a notice of its adoption by July 1, 1990. Copies of the draft and final policy notices will be mailed to each recreation residence permittee and to individuals and organizations known to have an interest in this policy.

The public is advised that the Assistant Secretary's decision, while staying specific provisions of the policy, also expressed concern about other provisions of the policy such as procedures for fee determination. These provisions will require consideration and possible additional explanation or revision for clarity. These additional matters are not addressed in the notice, but will be addressed when a draft policy is published.

Provisions of the Adopted Policy To Be Examined

Those provisions of the adopted policy that have been stayed are summarized here along with a summary of the appellants objections and the Assistant Secretary's decision in response to the allegations.

1. *Higher Public Purpose.* The term "higher public purpose" was defined in § 41.23b of the Forest Service Handbook (FSM 2709.11) as "a higher priority use of a site for the benefit of the general public that is timely, clearly needed, in public demand, and where other sites to satisfy the need cannot reasonably be made available." "Higher public purpose" is further defined in the FSH 2709.11, § 41.23b to "exclude unspecified public needs or uses, such as general Forest use or open space alone."

The appellants alleged that the definition of "higher public purpose" was "in direct conflict with the 1915 Terms Permit Act which specifically refers to natural, scenic, recreational and other aspects of the National Forest."

The Assistant Secretary found that the policy "improperly restricts consideration of other valid uses for the same sites" and that "it is improper for the policy to discriminate against other valid uses, such as open space * * *." The Assistant Secretary's decision further states: "The rigorous standard for a finding of a 'higher public purpose,' along with the detailed list of other report criteria necessary to support nonrenewal, arbitrarily discriminate against other lawful uses of the forest. Permittee renewal rights should not be deemed superior to other uses, but must be found to be consistent with other planned uses of the forest each time permitted rights are considered. Such a balanced consideration is necessary to comply with the mandate of the Act of 1915, that permitting authority be exercised consistent with the general public's full enjoyment of the national forest."

The term "higher public purpose" is used numerous times throughout the adopted policy which is set out at the end of this notice. To ensure that reviewers recognize that the term may be revised to be less restrictive throughout the policy, the term "alternative public purpose" (one of two optional definitions) is printed in boldface and parentheses wherever the term "higher public purpose" appears in the text. This is done as a reader aid to identify all the affected provisions, not to indicate that one term is favored over another.

2. *Term Permit Renewal.* The policy at FSM 2347.1 directed authorized officers to "Issue twenty year term permits and renew every ten years unless need for a higher public use at the same location has been documented and established." Appellants alleged that "The criteria for documenting and establishing higher public use are so prejudicially slanted in favor of the private use, complex and difficult that continued occupancy is all but guaranteed" and "violates the 1915 Act by all but guaranteeing indefinite tenure far exceeding 30 years."

The Assistant Secretary found that the tenure-related issues raise "concerns that the policy goes beyond statutory limitations on period of occupancy, and improperly restricts consideration of other valid uses for the same sites." As stated in 1, the Assistant Secretary's decision also finds that the "criteria necessary to support nonrenewal arbitrarily discriminate against other lawful uses of the forests."

3. In-lieu Sites. The appellants alleged that the policy "provides permittees being terminated or not renewed with in-lieu lots even to the point of

establishing new tracts." The appellants further alleged that "Such in-lieu lots or new tracts are not available to anyone else" and that "this policy, once again, clearly violates the intent of the 1915 Act by promising indefinite tenure to private interests and denies any other citizen equal access for whatever additional lots may become available."

The Assistant Secretary's decision stays the implementation of policy provisions offering in-lieu lots to permittees who have received notice of nonrenewal or termination.

4. Commercial Uses. The appellants alleged that the policy provision requiring that commercial use must show a clear and convincing need and bear a greater burden of proof than those for other uses could "deprive the public of facilities need for full public enjoyment" and that it "discriminates against commercial uses." The Assistant Secretary's decision finds that the criteria necessary to support nonrenewal arbitrarily discriminate against other lawful uses.

Request for Public Comment

In order for the public to consider the key provisions requiring revision in the context of the total policy, the text of the adopted policy is being reprinted at the conclusion of this notice. Following each affected section, possible revision options are displayed. Where multiple options are given, they appear in the following order: The first option listed would give the Forest Service the most discretion in implementing the policy and the last option is the minimal revision necessary to comply with statutory authorities.

It should be noted that adoption of certain options would require conforming changes in other parts of the policy. Because of the multiple options offered, it was not practical to show all the possible conforming changes that would need to be made throughout the policy; therefore, those changes are not highlighted in this publication.

While general comments are welcome, because of the coding structure of the Forest Service Manual and Handbook, it is extremely important that reviewers identify their specific comments by topic and section number first and then by the itemized option within a section. For example, *Administration* Sec. 2721.23a, option 9A. Referring to section numbers and subjects and, where appropriate, option numbers will ensure that the Agency properly identifies the subject area being addressed and understands the context in which comments are made.

Dated: September 11, 1989.

George M. Leonard,

Associate Chief.

Recreation Residence Policy and Procedures as Published on August 16, 1988 With Options for Revision

Note: The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only those sections of the Forest Service Manual and Handbook including policy direction that would be revised are set out here. The audience of this direction is Forest Service employees charged with issuing and administering recreation residence use authorizations.

Title 2300—Recreation, Wilderness, and Related Resource Management

2347—Non-Commercial Recreation Use

This section deals with privately built and owned structures allowed on National Forest land under special use authorization. These structures are maintained for the use and enjoyment of holders and their guests. As recreation facilities, they are vacation sites and may not be used on a permanent basis (FSM 2721.23).

2347.03—Policy

1. Manage non-commercial recreation use sites in accordance with basic recreation policy in FSM 2303 as important and valid components of the overall National Forest recreation program.

2. Maintain in place those existing facilities now occupying National Forest land under special use authorization that (a) are at locations where the need for a higher public purpose (alternative public purpose) has not been established, (b) do not constitute a material, uncorrectable offsite hazard to National Forest resources, and (c) do not endanger the health or safety of the holder or the public.

3. Deny applications for construction of new facilities except where they would replace similar existing facilities.

4. Deny any proposal for commercial activity at permitted, non-commercial recreation use sites.

5. Require non-commercial recreation use holders to maintain their sites to protect the natural forest environment. Do not allow construction or placement of non-authorized facilities on these sites.

2347.1—Recreation Residences (FSM 2721.23 and FSH 2709.11.)

1. Recreation residences are a very important use of National Forest System lands. They are an important component of the overall National Forest recreation program and have the potential of supporting a large number of recreation person-days. The Forest Service will work in partnership with the holders of these permits to maximize the recreational benefits of these residences.

2. Administer recreation residence special use permits to ensure proper use of the site for family and guest recreation purposes.

3. Use every reasonable effort to provide in-lieu sites to holders who have received nonrenewal or termination notices (except termination for breach). For this purpose, sites within or adjacent to the National Forest containing the residences being terminated or under nonrenewal, including undeveloped or withdrawn sites, shall be available as in-lieu sites. New tracts may be established for recreation residence in-lieu sites at locations not needed in the foreseeable future for a higher public use (alternative public use). In-lieu sites should be comparable to the sites being recovered when possible, but make sure that holders are informed that the Agency cannot guarantee that the available in-lieu sites will be entirely satisfactory. Do not establish new recreation residence tracts for any other purpose than for providing in-lieu sites (FSM 2721.23e).

Option 3A. Holders who have received nonrenewal or termination notices (except termination for breach) may be offered an in-lieu site when sites are available in the same recreation tract and there is no other use for that site in the foreseeable future.

Option 3B. Holders who have received nonrenewal or termination notices (except termination for breach) may be offered an in-lieu site when sites are available in established tracts.

Option 3C. Same as the adopted policy, except revise the first sentence to read "In-lieu sites may be made available to holders who have received nonrenewal or termination notices (except termination for breach)," and in the second sentence delete "shall" and substitute "may".

4. Although a few full-time residences are currently authorized by special use permit, do not approve any new authorizations for such uses, except in special situations to provide caretaker or other similar services where there is a strongly demonstrated need (FSM 2347.12). Do not approve in-lieu sites for full time residence use.

5. Issue 20-year term permits and renew them every 10 years unless need for a higher public use (alternative public use) at the same location has been documented and established.

Option 5A. Issue term permits for 30 years, the maximum period specified in the Act of March 4, 1915. Review permits every 5 years and update as necessary to make them

consistent with changes in laws, regulations, and directives. Consider renewal of the permit two years prior to expiration. Reissue permit if consistent with the Forest plan.

Option 5B. Issue 20-year term permits. Consider renewal at end of permit period. Reissue permit if consistent with the Forest plan.

Option 5C. Issue 20-year term permits. Review in 10 years to determine whether or not the permit should be renewed upon expiration. If the determination is to renew, notify the permittee and, if that determination is consistent with the Forest plan, issue a new 20-year permit at the end of the permit term. If another need for the site has been established through the Forest planning process or if a need for the site is to be reviewed, new permits may be issued, at permit expiration, for a term of less than 20 years.

6. Give holders at least 10 years written advance notice if the use is not to be continued, except when the permit is to be terminated when (a) it is in the public interest, particularly when the final decision authority does not rest with the Forest Service, (b) there is an uncorrected breach of the permit, or (c) the site has been rendered unsafe by catastrophic events such as flood, avalanche, or massive earth movement. In these exceptions, give as much advance notice as possible.

Correction: If options 5A or 5B were adopted, the provision to provide 10 years advance notice for nonrenewal would require adjustment.

7. Review nonrenewal decisions two years prior to the scheduled expiration date to determine if the original decision is still valid, provided the decision is non-appealable.

Correction: Add the phrase "upon request of the holder" after "nonrenewal decisions" to be consistent with FSM 2721.23a and FSH 2709.11, Sec. 41.23d.

8. Termination of a recreation residence permit within the term of the permit should not be undertaken unless there are appropriations to pay for the improvements and there is an urgent need to use the site before it could be recaptured for public use by nonrenewal procedures. When considering a termination, follow the procedures for permit renewals and nonrenewals to the extent practical (FSH 2709.11, 41.23).

Option to item 8: Remove last sentence.

2347.11—Preventing Unauthorized Residential Use

Prevent unauthorized full-time residence use by enforcing the terms of the special use permit. Continue to administer those recreation residences presently authorized as a principal place of residence in accordance with provisions of the special use permit, under policy adopted in 1970. Upon transfer or sale of improvements, discontinue the residential use and authorize only recreation residence use.

2347.12—Caretaker Residences

2347.12a—Authority.

Authorize caretaker use of a recreation residence with an annual permit, Form 2700–4, under the Act of June 4, 1897. (Require applicants who currently have term permits to exchange them as a condition of obtaining the caretaker authorization.)

2347.12b—Caretaker Residence Use

1. The Forest Supervisor may authorize caretaker residence in limited cases where it is demonstrated that caretaker services are needed for the security of a recreation residence tract, and alternative security measures are not feasible or reasonably available. The need for a caretaker residence rarely can be justified where yearlong occupancy is already authorized in the tract.

2. Authorize no more than one caretaker residence per recreation residence tract unless factors such as size and layout of the tract call for more than one. The affected tract association, or if there is no association, at least 60 percent of the affected holders, must document approval of request for a caretaker residence. Require the applicants for caretaker use to document the caretaker services they will provide.

3. Issue the annual permit only for an existing residence. The permit must contain a provision that automatically terminates authorization for yearlong use in case of change in ownership. Do not authorize construction of a new residence for caretaker services.

4. Coordinate applications for caretaker residence permits with local Governmental agencies to avoid creating unreasonable demands or burdens for such services as snow plowing, mail delivery, garbage pickup, school bus, or emergency services.

5. The fees for caretaker residences will be 25 percent more than those charged for recreation residence use of a similar site in the tract.

6. A tract association may own caretaker residences.

7. If a site ceases to be used as a caretaker residence, issue a new term permit for recreation residence use to the holder, if qualified, or to the purchaser of the improvements.

Title 2700—Special Uses Management

2721.23—Recreation Residence

This designation includes only those residences that occupy planned, approved tracts or those groups established for recreation residence use (FSM 2347 for basic policy on recreation residence use).

2721.23a—Administration

The following direction relates specifically to issuance and administration of special use permits for recreation residence. For recreation residence permits in Alaska, follow the additional requirements in section 1303(d) of the Alaska National Interest Lands Conservation Act.

1. Issue special use permits for recreation residence in the name of one individual or to a husband and wife. Upon reissuance, renewal, or amendment, revise authorizations that are not issued to an individual or to a husband and wife, so that the responsible person is identified.

2. Issue no more than one recreation residence special use permit to a single family (husband, wife, and dependent children).

3. Do not issue special use permits for recreation residence use to entities such as commercial enterprises, nonprofit organizations, business associations, corporations, partnerships, or other similar enterprises, except that a tract association may own a caretaker residence.

4. To the extent possible, issue all recreation residence permits in a tract, or in logical groups of tracts, with the same expiration date.

5. To help defray costs and provide additional recreation opportunities, a holder may obtain permission for incidental rental for specific periods. Ensure that rental use is solely for recreation purposes and does not change the character of the area or use to a commercial nature. Rental arrangements must be in writing and approved in advance by the authorized officer. The holder must remain responsible for compliance with the special use authorization.

6. Allow no more than one dwelling per site to be built. In those cases where more than one dwelling (residence/sleeping cabin) currently occupies a single site, allow the use to continue in accordance with the authorization. However, correct such deficiencies, if built without prior approval, upon transfer of ownership outside of the family (husband, wife and dependent children).

7. When a recreation residence is included in the settlement of an estate, issue a new special use permit, undated to reflect policy and procedural changes, to the properly determined heir, if eligible. Prior to estate settlement, issue an annual renewable permit to the executor or administrator to identify responsibility for the use pending final settlement of the estate. When a recreation residence is sold, issue a new term permit to the buyer, if eligible.

8. Specify in the permit that the recreation residence must be ooccupied at least 15 days annually, the minimum acceptable period of occupancy.

9. Issue recreation residence term permits for a maximum of 20 years.

a. Term permits shall provide for renewal of 20-year permits 10 years before expiration unless nonrenewal has been established.

b. At the end of the first 10 years after initial issuance, offer holders, in writing, new 20-year term permits that also include the provision for renewal at the end of 10 years, unless written notice of nonrenewal has been given.

c. Continue to renew term permits in this same manner unless holders are given notice of nonrenewal.

Option 9A. Issue recreation residence term permits for a maximum of 30 years. Review permits every 5 years and update to make the permit consistent with changes in laws, regulations, and directives. At expiration new 30-year permits may be issued if consistent with forest planning.

Option 9B. Issue recreation residence term permits for a maximum of 20 years. At expiration, new 20-year permits may be issued if consistent with forest planning.

Option 9C. Issue recreation residence term permits for 20 years. Review permit at the end of 10 years to determine whether permit should be renewed; however, do not issue a new permit until the end of the permit term. New permits may be issued for a 20-year term or for a shorter period if another need for the site has been established through the Forest planning process of if a need for the site is being reviewed.

10. When a higher public need (alternative public need) for the site has been documented and established (FSH 2709.11, Chapter 40), initiate nonrenewal action.

a. Notify existing and prospective holders of the reasons, and provide them with copies of the documentation.

b. Allow the current term permit to expire under its own terms, of issue a new term permit for between 10 and 20 years, depending on the time of the identified need.

c. Clearly specify any limited tenure in the new permits with: "This permit will terminate on (*insert date*) and will not be renewed."

11. Recreation residences are a valid use of National Forest System lands and an important component of the total National Forest recreation program. Recreation residences may represent a substantial investment and have the potential of supporting a large number of recreation person-days per acre compared with other uses. Therefore, when considering nonrenewal of recreation residence permits for an alternative use, be sure the clear weight of the evidence is on the side of the need for the higher public purpose of use at the location.

Option 11A. Remove this paragraph.

Option 11B. Recreation residences are a valid use of National Forest land and a component of the total recreation program.

Option 11C. Recreation residences are a component of the total National Forest recreation program. Recreation residences may represent a substantial investment and have the potential of supporting a large number of recreation person-days per acre. Therefore, when considering nonrenewal of recreation residence permits because of an alternate use, consider all factors given in FSH 2709.11 sec.41.23b before denying renewal of the permit.

12. Before approval by the Forest Supervisor, the Regional Forester will review proposed nonrenewal notices, supporting documentation and summary of public comments, and may modify them.

13. In cases where a nonrenewal decision has been made and use beyond the expiration date will be authorized for a limited period of time, issue a term permit for an corresponding period of time, not to exceed 20 years.

14. The Forest Supervisor or Regional Forester may review nonrenewal decisions at any time, using current Forest Service Manual and Forest Service Handbook policies and guidelines and considering any new or changed conditions. Forest Supervisors, upon request of the holder, shall review all such decisions 2 years prior to the expiration date (FSH 2709.11, Sec. 41.23d), provided decisions resulting from such review are non-appealable.

15. In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, conduct an environmental analysis to determine whether improvements on the site can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild. Normally, the analysis should be completed within 6 months of such an event.

Allow rebuilding if the site can be occupied safely. However, if the need for a higher public use (alternative public use) at the same location has been documented and established, do not allow rebuilding if the improvements are more than 50 percent destroyed. If rebuilding is not authorized, make every reasonable effort to offer in-lieu sites to holders.

Option 15A. Revise item 15 as follows: "In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a fire, flood, avalanche, or massive earth movement, conduct an analysis to determine whether improvements on the site can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild. Normally, the analysis should be completed within 6 months of such an event.

If consistent with the Forest plan, and within the permit term, allow rebuilding if the site can be occupied safely. However, if the need for an alternative public use at the same location has been determined do not allow rebuilding if the improvements are more than 50 percent destroyed."

Option 15B. Same as Option 15A except at the end add "If rebuilding is not authorized, available in-lieu sites may be offered to holders."

16. At the time special use permits are issued, advise holders that they must notify the Forest Service if they intend to sell their improvements, and that they must provide a copy of the special use permit to a prospective purchaser before finalizing a sale. Whenever possible, advise a prospective purchaser of the terms and conditions of the special use permit before the sale is final.

17. Usually, do not stay a fee increase pending completion of an appeal of the fee under the administrative review regulations. Make any adjustments resulting from the administrative review through credit, refund, or supplemental billing.

18. During the terms of the permit, termination of the use may only take place in accordance with the terms and conditions of the permit.

Before approval by the Forest Supervisor, the Regional Forester will review proposed terminations (except termination for breach of terms of the permit), with supporting documentation and a summary of the public comments, and may modify them.

2721.23b—Applications

Insofar as practicable, notify a new or prospective owner that he or she must make application for the authorization to use existing improvements in accordance with 36 CFR 251.54.

2721.23c—Permit Preparation

1. Use the Term Special Use Permit for Recreation Residence (FSH 2709.11, ch. 50), to authorize recreation residences.

except use form FS–2700–4, Special Use Permit, when:

a. Extended use of a nonrenewed recreation residence is authorized and a minimum term of continued use cannot be predicted.

b. Continuance of the recreation residence use is conditioned on the owner complying with specific Forest Service requirements before a term permit is issued.

c. The improvements are managed by a third party pending settlement of an estate, bankruptcy proceedings, or other legal action.

d. Yearlong occupancy is authorized by the Forest Supervisor, at which time the improvement ceases to be a recreation residence.

2. Include in either permit all authorized improvements associated with recreation residence use; however, do not authorize use of more than the statutory maximum of 5 acres under a term permit. Authorize community or association-owned improvements, such as water systems, by a separate permit (form FS–2700–4).

2721.23d—Fee Determination (FSH 2709.11, ch. 30.)

1. Use fair market value as determined by appraisal in determining the base annual rental fees for recreation residence sites. Redetermine the base fee at 20-year intervals.

2. Adjust the fee annually by the annual (second quarter to second quarter) change in the Implicit Price Deflator-Gross National Product (IPD–GNP).

3. Use professional appraisal standards in appraising recreation residence sites for fee determination purposes (FSH 2709.11.)

4. Where feasible, contract with private fee appraisers to perform the appraisal.

5. Require appraisers to coordinate the assignment closely with affected holders by seeking advice, cooperation, and information from the holders and local holder associations.

6. Retain only qualified appraisers. To the extent feasible, use those appraisers most knowledgeable of market conditions within the local area.

7. Before accepting any appraisal, conduct a full review of the appraisal to ensure the instructions have been followed and the assigned values are supported properly.

Forest Service Handbook 2709.11—Special Uses

Chapter 30—Fee Determination

33—Recreation Residence Fees

33.1—*Base Fees and Indexing.* Follow these procedures in determining the base (beginning) fee and subsequent fees under a 20-year cycle.

1. As the initial base, use the fees established in one of the years between 1978 and 1982. The first year of the fee cycle will be the first year of the established fee (disregarding any phase-in that may have been provided). Adjust the full base fee forward by applying the appropriate cumulative Implicit Price Deflator-Gross National Product (IPD–GNP) adjustment factor shown in Exhibit 1. New fees for 1989, established in this manner, will be phased-in over a 4-year period (1989–1992) at the rate of one-fourth of the increase each year, except that fees will not be phased-in for those permits that limit fee adjustments to 5-year intervals.

In those cases where there may not be a fee established for the 1978–1982 period, Regional Foresters are authorized, subject to concurrence of the Chief, to utilize a different starting date and to adjust the length of the fee cycle so that all permits will have a new base fee determined during the 1998–2002 period.

2. For 1990 through the last year of the fee cycle, adjust the fees on an annual basis by calculating the percentage change of the IPD–GNP index (as reported by the Bureau of Economic Analysis, Department of Commerce, in July of each year) from the second quarter of the previous year to the second quarter of the current year and applying this percentage adjustment factor to the current year's fees.

For term permits that restrict adjustments to 5-year intervals, apply the IPD index adjustments cumulatively at 5-year intervals. At the end of the current 20-year term, or earlier if agreed to by the holder, revise permits to provide for annual indexing.

3. Limit the annual fee adjustment for 1990 and thereafter to 10 percent per year when the change in the IPD–GNP index exceeds 10 percent in any one year. The index amount in excess of 10 percent will be carried over and applied to the fee for the next succeeding year in which the index factor is less than 10 percent. The 10 percent limit shall not apply to the fee adjustment (phased-in amount) for 1989.

4. Re-appraise the site toward the end of the 20-year cycle. Beginning in the twenty-first year (the first year of the next fee cycle; 1998 in the case of 1978 fees), put into effect the base fee for the next 20-year cycle by applying 5 percent to the newly determined appraised market value of the site for recreation residence purposes.

5. In those few cases where one or more additional sleeping structures (guest cabins, and so forth) have been added to a single site, add to the current adjusted base fee an additional charge equal to 25 percent of the fee established for a single residence use of the site or $100, whichever is greater, per structure.

EXHIBIT 1.—SEC. 33.1 IPD–GNP ADJUSTMENT FACTORY BY YEAR

Base fee year	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Cum. adj.
1978	1.101	1.092	1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.771
1979		1.092	1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.609
1980			1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.473
1981				1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.346
1982					1.050	1.032	1.038	1.033	1.026	1.028	.1029	1.261

(Note: Cum. Adj.—Cumulative Adjustment.)

The above factors for fee years 1979–1986 were taken from Table 5, Price Indexes and the Gross National Product Implicit Price Deflator, as published in the *Survey of Current Business* by the Department of Commerce, Bureau of Economic Analysis, February 1986. These factors represent an annual rate, based on the percent change from the first quarter to the second quarter of the indicated year. The 1987 factor of 1.026 is the percentage change in the IPD–GNP index from the second quarter of 1985 to the second quarter of 1986 as reported in the July 1986 issue of "United States Department of Commerce News," a publication by the Bureau of Economic Analysis. The IPD–

GNP index for the second quarter of 1985 is 111.1. The 1988 and 1989 factors, were determined following the same procedures, using the appropriate year's publication. The factors for 1979–1989 in Exhibit 1 are shown only to illustrate how the cumulative adjustment factor used to establish the 1989 fee is determined. The factor was determined by chain multiplying the factor for the years within the base fee year period (for 1982 this would be 1.050 × 1.032 × 1.038 × 1.033 × 1.026 × 1.028 × 1.029=1.261.)

The following two examples illustrate use of this table in determining the 1989 fee:

(1) A fee of $412 that became established in 1982 (first year in the fee cycle) would be adjusted to $520 in 1989 ($412 × 1.261). This would be the fee amount owed by a holder who does not accept the new term permit and would remain constant until the end of the five year adjustment period. If a new term permit is accepted, the fee would be phased-in, and the holder would be charged $439 for 1989, instead of the full amount.

(2) A 1980 base year fee of $315 would be adjusted to $464 ($315 × 1.473) with the actual 1989 charge limited to $352 for a new term permit. A holder who keeps the old permit would pay the full fee of $464 in 1989.

Factors for the years 1990 and thereafter will be determined in the same manner as the 1989 factor. Using the 1989 factor as an example, the index for the second quarter of 1987 as reported in the July 1987 Bureau publication is 117.2; the index for February 1988 in the July 1988 Bureau publication is 120.6. The percentage change in the index to be used to determine 1989 fees is 120.6 minus 117.2 divided by 117.2. Thus, 1989 fees will be 2.9 percent higher than 1988 fees for those permits that are indexed.

Using the above two examples, calculation of the 1990 fees for those accepting new term permits would be as follows: (A 1990 IPD–GNP adjustment factor of 1.028 is assumed.)

(1) The full 1989 fee of $520 times the IPD–GNP index factor for 1990 of 1.028 equals $535, the full fee for 1990. The increase in the fee is $15. The amount of the 1989 fee increase to be phased-in in 1990 is $54 ($520 − $412 = $108/2 = $54). Thus, the 1990 fee to be charged is the base 1982 fee of $412 + $54 + $15 = $484.

(2) The full 1990 fee equals $477, a fee increase of $13. The amount of the 1989 fee increase to be phased-in in 1990 is $75 ($464 − $315 = $149/2 = $75). Thus, the 1990 fee to be charged is the base 1980 fee of $315 + $75 + $13 = $403.

33.11—*Fee Credits.* Provide holders any unused or remaining credits due them under provisions of the Appropriations Acts for fiscal years 1983 through 1986.

33.2—*Fees on Nonrenewal.* When permits are placed on tenure (that is, the special use permit will not be renewed upon expiration), the annual fee for the tenth year prior to the expiration, referred to as the "base on-tenure fee," will be taken as a base and the fee for each year during the last ten years will be one-tenth of the base multiplied by the number of years then remaining on the permit. For example, charge a holder with 9 years remaining 90 percent of the frozen fee; with 8 years, 80 percent; and so forth.

Use the following schedule to calculate the holder's fee during the 10-year period:

Years remaining	Percent of base on-tenure fee
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
1	10

Option to the preceding two paragraphs, including table: When permits are placed on tenure (that is, the special use permit will not be renewed upon expiration), continue to collect the annual fee during the last 10 year period; do not adjust the fee during this period.

Use the following fee determination procedures when a review of the nonrenewal decision shows conditions have changed that warrant continuation of the recreation residence permit.

1. If a new 20-year term permit is issued, the Forest Service shall recover one-half of the sum of the amount of fees foregone while the previous permit was under nonrenewal notice. Collect this amount evenly over a 10-year period. The obligation will run with the site and be charged to a subsequent purchaser. The new fee shall be the annual index adjusted fee computed as though no limit on tenure existed, plus the amount specified above until paid in full.

2. If a 20-year term permit is not issued, and the occupancy of the subject site is to be allowed to continue for less than 10 years, do not recover past fees. Determine the new fee by:

a. Computation of the fee as if no nonrenewal notice was issued reduced by the appropriate percentage for the number of years of the extension provided (that is, a 6-year tenure period results in a fee equal to 60 percent of the new base on-tenure fee).

b. If a site is allowed to continue past a 10-year period and is returned to a normal permit, the Forest Service shall recover fees as outlined in item 1, computed for the most recent 10-year period in which the term of the permit was limited.

Option to items 2a and b. 2. When a review of a nonrenewal decision shows that conditions have changed and these changes warrant continuation of the recreation residence permit, the new fee shall be the annual index-adjusted fee computed as though no limit on tenure existed. Also charge the full fee for permits that are temporarily extended beyond the expiration date.

33.3—*Appraisals.* Use the following process to determine the fair market value of recreation residence sites.

1. Use appraisals made by professonal appraisers for determining the market value of the fee simple estate of the National Forest land underlying the site subject to a special use permit, but without consideration as to how the authorization would or could affect the fee title of the site (FSH 5409.12, Chapter 6 for the standard contract to be used to establish fair market value of recreation residence sites).

2. In consultation with affected holders, select and appraise typical sites (rather than all individual sites) within groups that have essentially the same or similar value characteristics. Within such groupings, adjust for measurable differences between the sites. (Once properly established, typical site classifications should rarely change.)

3. Ensure appraised values are based on comparable market sales of sufficient quality and quantity that will result in the least amount of dollar adjustment to make them reflective of the subject sites' characteristics. Such charactertistics include:

a. Physical differences between subject site and the comparable sales.

b. Legal constraints imposed upon the market by governmental agencies.

c. Economic considerations evident in the local market.

d. Locational considerations of subject site in relation to the market (sales) comparable.

e. Functional usability and utility of the site.

f. Amenities occurring to the site as compared with selected sales comparables.

g. Availability of improvements (such as roads, water systems, and power

lines) provided by nonholder entities, including the United States. Do not adjust for improvements furnished by holders.

h. Other market forces and factors identified as having a quantifiable effect upon value.

33.31—*Appraisers.* 1. Select fee appraisers who hold a current certification of competence from a nationally recognized professional appraisal organization. In the case of Forest Service appraisers, use those individuals who have received adequate training through professional appraisal organizations and who have satisfactorily completed the basic courses necessary to demonstrate competence.

2. Require appraisers to sign a standard agreement that states:

a. The approved appraisal formal to be used.

b. The approved standard forms to be used.

c. A full, complete, and accurate definition of the appraisal problem.

d. The standards of professional competence, ethics, and practice to which the appraiser shall adhere.

e. Those requirements of the appraisal assignment that may be imposed under (1) statutes, (2) Federal regulations, (3) Forest Service policies and procedures, and (4) situations unique to the given appraisal assignment.

3. Require appraisers to notify affected holders by mail and offer to meet with them to discuss the assignment, answer questions specific to the assignment, and seek advice, information, and cooperation from the holders and their local organizations. The appraiser must notify holders of such a meeting at least 30 days in advance of the meeting. Send notices to the address used for bills for collection. Use the notice to give the holders advance information on the appraisal assignment. At such meetings, require that the appraiser have available copies of the appraisal instructions, directions, and requirements for review by the holders. An appraisal cannot be made prior to the meeting with the holders.

33.32—*Establishing Recreation Residence Site Value.* 1. Upon receipt of the appraisal report, conduct a review of the appraisal in conformance with the standards of the National Association of Review Appraisers.

2. Following review and acceptance of the appraisal, notify affected holders of Forest Service acceptance of the report. In the notification, inform holders that they and other interested parties have 45 days in which to review the appraisal. Upon request, provide copies of the report(s) and supporting documentation pursuant to the Freedom of Information Act.

3. Upon request, provide an opportunity for affected holders to obtain, at their expense, an appraisal report from an appraiser holding at least the same or similar qualifications as the one selected by the Forest Service.

a. The Forest Service will provide the holders with a copy of the standards used by the appraiser selected by the Forest Service and holders will provide the standards to the holder-employed appraiser. The holder will require the observance of these standards, including a signed certification that ensures an understanding of the appraisal instructions and standards. Reject any appraisals that do not meet these standards.

b. Subject the holder-furnished appraisal to the same review requirements as the appraisal obtained by the Forest Service.

4. Give full and complete consideration to both appraisals. If the two appraisals disagree in value by more than 10 percent, ask the two appraisers to try and reconcile or reduce their differences. If the appraisers cannot agree, the Forest Supervisor will utilize either or both appraisals to determine the fee.

5. When requested, seek a third appraisal.

a. The cost shall be shared equally by the holder and the Forest Serviced.

b. This appraisal must meet the same standards of the first and second appraisals and may or may not be accepted by the authorized officer.

Title 2700—Special Uses Management

2721.23e—Analysis of Recreation Residence Continuance (FSH 2709.11, ch. 40)

Follow these instructions in determining whether recreation residence use may continue at current sites or whether the sites should be converted to a higher public use (alternative public use).

1. Analyze and consider the future use needs of recreation residence sites before renewing the authorizations for new terms. Before issuing a nonrenewal decision, ensure that the action is fully supported by a report conducted within the requirements of the National Environmental Policy Act and Forest Service analysis process. If done as part of the Forest Plan, the report will be included as a separate appendix to the plan.

2. Ensure that continuance of recreation residence uses conforms with the Act of March 4, 1915, authorizing issuance of term special use permits for summer homes.

Option to item 2. Ensure that recreation residences do not preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the National Forest as stipulated in the Act of March 4, 1915.

3. Base nonrenewal decisions on the extent of the need for higher public use of the site. Higher public use or purpose refers to a higher priority use of the site by the public that is timely, clearly needed, in public demand, and where other sites to satisfy the need cannot reasonably be made available.

Option to item 3, first paragraph. Base nonrenewal decisions on the need for alternative uses of the site as determined in the forest plan or by other analysis.

In meeting public needs, give consideration to alternatives such as (a) availability of sites other than recreation residence sites to satisfy the public need, (b) feasibility of common, shared, or multiple uses that include recreation residences, and (c) increased feasibility of common or shared use through adjustment of site and tract size, configuration or boundaries, or location of improvements.

Option to item 3, second paragraph. Replace "In meeting public needs, give consideration to" with "Continuing recreating residence use/nonrenewal decisions will consider".

4. Coordinate continuance of recreation residence use with decisions contained in the Forest Land and Resource Management Plan. When there is no readily identifiable higher public future use (alternative public future use) of the site and continued use is consistent with the Forest Land Management Plan, a decision to renew may qualify for categorical exclusion under NEPA procedures.

5. When permits are not renewed at expiration, make every reasonable effort to offer holders alternatives (in lieu) sites at locations not needed in the foreseeable future for a higher public use (FSM 2347.1, and FSH 2709.11, sec. 41.23b and sec. 41.23d).

Option 5A. Remove item 5.

Option 5B. When permits are not renewed at expiration, available in-lieu sites may be offered at locations not needed in the foreseeable future for alternative public uses. (Note: Revise FSM 2347.1.3 and FSH 2709.11, sec. 41.23b accordingly.)

6. In the event of a nonrenewal decision, give the holder at least 10 years continued use and identify the specific higher public purpose(s) (alternative public purposes) for which the land is being recovered. Allow

continued use of the site until such time as conversion to the new use is ready to begin.

7. Proposals to convey recreation residence tracts into private ownership by land exchange may be considered at any time. Such proposals will be processed in accordance with the instructions in FSM 5430 applicable to all land exchanges.

2721.23f—Participation In Issue Resolution

1. Give notice of any recreation residence issues and appeals that reach the Regional Forester to holder representatives, and others that request to be notified, unless requested otherwise by the appellant. This includes the National Forest Recreation Association Homeowners Division and National Inholders Assocation. The purpose is, on a regional basis, to provide an opportunity for the holder representatives to participate in order to reduce conflict between holders and the Forest Service. As necessary, specify a Forest Officer to work with the holder representatives and others.

2. Consider information submitted by permittee representatives within the context of the Secretary of Agriculture's administrative appeal regulations.

3. The reviewing officers may exercise their authority to extend time given the permittees and other parties a reasonable time to submit their information, not to exceed thirty (30 days.

2721.23g—Nocompliance

Give a written notice and provide a reasonable opportunity for a holder to correct special use permit violations before terminating the use for breach or noncompliance. Termination for noncomplinace shall be only for a breach that continues after notice and a reasonable opportunity for correction has been given.

2721.23h—Site Restoration

On termination or nonrenewal of the permit, require the holder to return the property to a condition acceptable to the Forest Supervisor. The holder may release the improvements to the Forest Service upon approval of the Forest Supervisor.

Forest Service Handbook 2709.11—Special Uses

Chapter 40—Special Uses Administration

41.23—Recreating Residence.

41.23a—Continuing Recreating Residence Use. (FSM 2721.23e.)

As with all types of special uses, decisions to issue new permits and/or decisions not to renew are appealable decisions which must be appropriately supported under the requirements of NEPA.

Option A. Replace section 41.23a by combining sections 41.23a and 41.23b. The new section 41.23a will require an analysis to determine continuing recreation residence use/nonrenewal and give instructions for preparing a report documenting and the analysis. Retitle the section "Recreation Residence Use Analysis". Revise the first paragraph to read "Decisions to continue allocation of the site for recreation residence use or to change to an alternative public use will be based on a recreation residence use analysis. These decisions must be supported by a NEPA analysis. The decisions are appealable." (Note: comments on options presented in sections 41.23a and 41.23b will be used in combining these sections.)

Option B. Replace the first paragraph with "Decisions to issue new permits and/or decisions not to renew must be based on a use analysis and be supported by a NEPA analysis. The decisions are appealable.

1. In most cases, scoping will result in a finding that the sites are not needed for higher public purpose (alternative public purpose) within the next 20 years and a new 20 year term permit can be issued. Such a finding will likely qualify for categorial exclusion.

Option 1A. Remove this item.

Option 1B. In most cases, a recreation residence use/nonrenewal analysis will result in a finding that the sites are not needed for alternative purposes and a new permit could be issued.

2. If scoping indicates that there is firm and factual basis for believing that there may be a future higher public purpose (alternative public purpose) within 20 years, after consultation with the Regional Forester, conduct an environmental analysis to determine whether or not the sites should be recovered for higher public purposes (alternative public purposes) and, if so, when.

Option to item 2, first paragraph. Coduct a recreation residence use/nonrenewal analysis, including an environmental analysis, to determine whether or not the sites should be recovered for alternative public purposes, and, if so, when.

Such studies will begin with the understanding that recreation residences are a valid use of National Forest lands unless clearly demonstrated otherwise. (FSM 2721.23a). Site disturbance resulting from removal and relocation of the recreation residences plus impacts of new construction may dictate that an environmental assessment or environmental impact statement will be necessary.

Option 2 A, second paragraph. Remove the first sentence.

Option 2 B, second paragraph. Replace first sentence with: "Such studies shall begin with the understanding that recreation residences are but one of several alternative uses of National Forest land."

3. Decisions to recover sites for a higher public use (alternative public use) must be coordinated with the Forest plan but are to be in a self-contained form.

Option to item 3: Decisions to recover sites for alternative public uses must be consistent with the Forest plan and documented in writing.

4. If there is no reasonably foreseeable need for the recreation residence tract to be used for a higher public purpose (alternative public purpose), or if identified public needs can be met through land exchange, encourage and facilitate an exchange of the sites (on a tract or group basis) for private lands suitable for National Forest purposes.

5. Where appropriate, require deed restrictions on National Forest land disposals to ensure the recreation residence use continues in a manner compatible with adjoining or nearby National Forest uses.

41.23b—Minimum Analysis Requirements for Nonrenewal Actions.

(Note: See discussion of options affecting this section under 41.23a.)

1. *Report:*

Option A. Remove 41.23b1 in its entirety and replace with:

"1. *Analysis:*

Include in the analysis:

(a). Recreation use.

(1). Conflicts between residential residences and other public uses.

(2). Feasibility of common, shared or multiple use that includes recreation uses.

(3). Alternative sites for general public use.

(4). Benefit comparison.

(5). Impacts of recreation residence removal, new construction, and proposed land use.

(b). Other resources.

(c). Environmental impacts (Follow NEPA procedures; FSM 1950 and FSH 1909.15)

(d). Health and safety.

(e). Administrative problems.

(f). In-lieu site availability.

(g). Land exchanges to meet public use objectives."

Option B. Revise 41.23b.1 as indicated by individual options given at appropriate places in the following text.

When nonrenewal is anticipated or could be recommended, the environmental assessment and/or the environmental impact statement must contain an objective and detailed description and analysis of all relevant data, and any explanatory notes, charts,

and maps needed to explore all reasonable alternatives. The environmental analysis process must be followed and there must be an action plan.

During the analysis process, encourage and solicit information and comments from permittees and other interested parties. Involve affected permittees in all phases of the process except the decision itself. Provide them 120 days or more encompassing a season of use to comment on a draft of the environmental assessment and/or the environmental impact statement and the supporting documentation.

Option to preceding two paragraphs: Replace the first sentence, first paragraph with "The analysis must contain an objective and detailed description and analysis of all relevant data and reasonable alternatives." Revise the second paragraph by deleting the text and replace with the following: "During the analysis process, encourage and solicit information and comments from permittees and other interested parties. Public involvement procedures associated with NEPA shall be followed, including involvement with the permittees and other interested publics."

To ensure Region-wide uniformity, submit the reports, if they recommend nonrenewal, including holder comments, to the Regional Forester for review before the Forest Supervisor approves the nonrenewal.

Provide holders and interested parties with copies of the final report and decision immediately after the decision date.

Consider the following aspects in the report:

a. *Recreation Use.* Discuss the relationship between the recreation residence use and other present and proposed uses of the site. Thoroughly describe elements of compatibility and conflict. If there are current or anticipated conflicts, describe the feasibility of other sites to meet public use needs or how general public needs on the site can be provided for by modifying recreation residence or proposed public use. Develop a full range of alternatives that at a minimum:

(1) Show ways to meet the public recreation needs without significant conflict with recreation residence uses, if possible, and how existing or potential conflicts can or cannot be mitigated.

(2) Examine the feasibility of common, shared, or multiple use that includes the recreation residences. Also examine the feasibility of adjusting site and tract sizes, configurations and boundaries, or relocation of site improvements to better accommodate such use.

(3) Examine the feasibility of alternative sites for general public use. Include in this analysis suitable private lands that the Forest Service could acquire by land exchange. The presumption is that such alternative sites are availble unless otherwise demonstrated.

Option to item 1a(3): Add "and recreation residence use" to the end of the first sentence and remove the rest of the paragraph.

(4) Show how the current and/or future need for other planned recreation uses outweighs or is outweighed by the benefits of continued recreation residence use.

Option to item 1a(4) Remove this item.

(5) Compare the potential recreation and financial losses to holders and their guests with the benefits that the public would gain from nonrenewal of the authorization.

Option (5)A. Remove this item.

Option (5)B. Compare the recreation residence benefits with the benefits that the public would gain from removal of the residences.

(6) Examine the impacts of recreation residence removal, new construction, and increased public use.

Option to item 6. Examine the impacts of recreation residence removal, the proposed use of the land, and any new construction.

b. *Other Resources.* Show in what way recreation residence occupancy is compatible or in conflict with other National Forest resources. Consider the applicability of Section 106 of the National Historic Preservation Act and other Federal and State laws which may have an effect on these resources.

c. *Environmental Impacts.* Discuss the environmental impacts of continued recreation residence use, together with the impacts of any improvements necessary for their continued use, compared with the impacts of any proposed alternative public use.

d. *Health and Safety.* Examine whether the occupancy constitutes a hazard to the health and safety of the general public or the holders. Explain specifically how and in what manner these hazards will occur and the opportunities for acceptable curative actions. Discuss whether health and safety standards can be met.

e. *Administrative Problems.* Explain if the occupancy creates untenable administrative problems or costs when related to the benefits provided the holders and the general public, including fees, cultural benefits, barriers to environmentally harmful use, and other amenities or services attributable to the presence of the holders and their improvements.

f. *In-Lieu Site Availability.* Make every reasonable effort to locate and reserve in-lieu sites that could be offered the holder for building or relocation of improvements. Such sites must be nonconflicting locations within or adjacent to the National Forest containing the residences (FSM 2347.1 and FSM 2721.23e). Appropriate alternatives for consideration are undeveloped or withdrawn sites in, near, or adjacent to established tracts, or new tracts at locations not needed in the foreseeable future for a higher public use. Sites that are vacant because of breach or other factors shall be available as in-lieu sites. Follow these procedures:

Option to item f, first paragraph: Consider in-lieu sites that could be offered the holder for building or relocation of improvements. Such sites must be in nonconflicting locations within the National Forest containing the residences (FSM 2347.1 and FSM 2721.23e). Appropriate alternatives for consideration are undeveloped sites within or adjacent to established tracts at locations not needed in the forseeable future for other public uses. Sites that are vacant because of breach or other factors may be considered as in-lieu sites. Follow these procedures:

(1) If possible, offer in-lieu sites to holders at the time the nonrenewal notice is given. If sites do not become available until later, offer them then.

Option to item (1): When available, offer in-lieu sites to holders at the time the nonrenewal notice is given. If sites do not become available until later, offer them then.

(2) Give first priority to identifying and offering in-lieu sites in the same tract or an expansion of that tract, where feasible.

(3) Allow the holders 90 days from the date of the joint inspection of the lieu site or 90 days from the final disposition of any appeals of the nonrenewal decision, whichever is later, to accept or reject the offer.

(4) When holders accept such offers, reserve the offered sites. Do not charge a fee until the holder begins immproving the site. The site reservation will expire upon holders failure to occupy the new site on a mutually-agreed upon schedule.

(5) Allow holders accepting offers to continue use of their current sites until the expiration date. Inform the holders that they should be prepared to move to the in-lieu site during the 24 months prior to the scheduled occupany removal, provided a supplemental review of the nonrenewal action has been completed.

(6) The opportunity to develop an in-lieu site, if accepted by the previous owner, will be extended to the new owner when there is a change in ownership of authorized improvements.

Option to item (6). Remove this item.

(7) Do not offer alternative sites for termination actions stemming from noncompliance with special use permit terms.

2. Factors To Consider In Nonrenewal Actions. Suppot nonrenewal decisions by full consideration and documentation of the following specific factors and criteria:

Option to item 2, first paragraph. Nonrenewal decisions will be based on the results of the continuing recreation residence use/nonrenewal analysis. Decisions will be written documents supported by consideration of the following specific factors:

a. The specific intended use or uses and the estimated time and budgetary feasibility of the need.

b. The need for the alternative use and the reason for its priority.

c. The reasons the public need cannot be met at an alternative location.

d. All reasonable alternatives to the conversion, including the possibility of combining or sharing public uses with recreation residence uses; and adjusting or altering lots or location of improvements to better accommodate common or shared uses.

Option to item d. Remove "All".

e. The reasons any conflict between the recreation residences and the proposed alternative use cannot be resolved.

f. The need to develop and provide the public use needed in a cost effective manner.

3. *Higher Public Purpose.* Identify and consider whether or not there is clear need for higher priority use of the site that is of benefit to the general public, is timely, in public demand, and where other sites to satisfy the need cannot reasonably be made available. Need and timeliness, for example, can be demonstrated by capacity use of similar nearby facilities.

Option 3A, first paragraph. Other Public Purpose. Identify and consider whether or not there is a need for the site that is a benefit to the general public.

Option 3B, first paragraph. Alternative Public Purpose. Identify and consider whether or not there is a need for an alternative use of the site that is of benefit to the general public, is timely, and in public demand. Need and timeliness can be demonstrated by capacity use of similar nearby facilities.

Examples of higher public purposes (alternatives public purposes) include but are not limited to (1) public roads and other public rights-of-way where no reasonable alternatives exist, (2) legally mandated public safety or health requirements, (3) other public recreation needs, (4) habitat requirements for rare or endangered species, and (5) commercial use developments serving National Forest programs, such as authorized resort accommodations, where no reasonable public or private alternatives exist. Determination of higher public purpose (alternative public purpose) for commercial use must show a clear and convincing need and bear a greater burden of proof than those for other uses. Higher public purposes (alternative public purposes) do not include unspecified public needs or uses, such as general Forest use or open space alone.

Option to item 3, second paragraph. Examples of alternatives public purposes include but are not limited to (1) public roads and other rights-of-way, (2) legally mandated public safety or health requirements, (3) other public recreation needs, (4) Habitat requirements for rare or endangered species, (5) natural and scenic values, and (6) commercial use developments serving National Forest programs, such as authorized resort accommodations.

41.23c—Nonrenewal Notification. Provide holders 10 years or more advance notice of nonrenewal actions except in cases involving breach, or when the site has been rendered legally unsafe by catastrophic events such as avalanche, flooding, or massive earth movement, or where the Forest Service does not have final decision authority. In these exceptions, make an effort to provide as much notice as possible.

Option to first paragraph. Revise the first sentence as follows: "Provide as much advance notice as possible, with a goal of at least 10 years, of nonrenewal actions except in cases involving breach or when the site has been rendered legally unsafe by catastrophic events such as fire, avalanche, flooding, or massive earth movements or where the Forest Service does not have final decision authority."

Include in a nonrenewal notice:

1. A description of the action and the reasons for the decision. Normally, use the same expiration date for all affected holders in a particular group or tract.

2. Identification of the environmental assessment report or the environmental impact statement upon which the decision is based.

Option to item 2. Revise to read "Identify the NEPA or other document upon which the decision is based.

3. Notice of appeal rights under 36 CFR 211.18.

4. Notice that the holder should refrain from making costly repairs, improvements, or expenditures. Advise the holder that such expenditures will not be required unless they are necessary to protect public health or safety.

Refer to FSM 2721.23a for procedure when recreation residences are destroyed or substantially destroyed by catastrophic events.

41.23d—Review of Nonrenewal Actions. The Forest Supervisor or the Regional Forester may review nonrenewal actions in process and should consider such reviews when circumstances or Forest Service direction have changed in such a manner that could suggest modification of the original decision (FSM 2721.23a).

For permits scheduled to expire in 1989 or thereafter, Forest Supervisors will review all such decisions two years prior to the non-renewal date upon request of the holder to analyze possible new circumstances or direction, and to determine whether or not the basis for the decision is still valid, providing the decision resulting from such review is non-appealable.

For all reviews, the following apply:

1. Reviews will be in writing and conducted in accordance with FSM 2721.23e.

Option to item 1. Reviews shall be documented in writing.

2. Affected holders will be notified in writing and asked to provide input for reviews and will be allowed involvement in all but the decision phase of the review process.

Option to item 2. Notify affected holders and interested publics in writing and provide an opportunity for comment.

3. If review indicates that a site will remain needed for higher public use (alternative public use) at the established date, the earlier decision may remain unchanged.

4. If review indicates that a site is no longer needed for higher public purposes (alternative public purposes), or is not needed as soon as estimated, provide for continuation of the recreation residence use by issuing a new permit for an appropriate term.

[FR Doc. 89-22184 Filed 9-19-89; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

[Supplemental Agreement No. 1]

Pigeon Roost Creek Watershed, KY; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Supplemental Agreement No. 1, Pigeon Roost Creek Watershed, Jackson County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Archie D. Weeks, Planning Staff Leader, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone: 606–233–2759.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Randall W. Giessler, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The supplemental plan concerns adding a structure that will both reduce floodwater damages and supply needed water to the residents and businesses in and around McKee, Kentucky. The planned work of improvement involves the installation of a multi-purpose dam upstream from McKee's existing water supply reservoir.

A limited number of copies of the Finding of No Significant Impact (FONSI) are available to fill single copy requests at the above address. Basic data developed during development of the environmental assessment are on file and may be reviewed by contacting Archie D. Weeks.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovermental consultation with State and local officials.)

Dated: September 8, 1989.

Randall W. Giessler,

State Conservationist.

[FR Doc. 89–22128 Filed 9–19–89; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held October 11 & 12, 1989, 8:30 a.m., in the Office of Export Licensing, Western Region Office, Suite 345, Newport Irvine Center, 3300 Irvine Boulevard, Newport Beach, California. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of the following Commodity Control List Numbers:
   - 1521—Amplifiers & related equipment.
   - 1522—Lasers.
   - 1529—Electronic equipment for testing & measuring.
   - 1531—Frequency synthesizers.
   - 1534—Flatbed microdensitometers.
   - 1541—Cathode-ray tubes.
   - 1553—X-ray systems, flash discharge.
   - 1556—Optical elements & elements for optical tubes.
   - 1572—Recording/reproducing equipment.

Executive Session

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program 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 that time permits, members of the public may present oral statements on issues pertinent to export regulations for commodities within the responsibility of the Committee. Due to time restrictions and expected public participation, presentations will be limited to 10 minutes each. Those who wish to make a presentation to the Committee are urged to reserve time by calling Lee Ann Carpenter at (202) 377–2583. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, OTPA/BXA, Room 4069A, U.S. Department of Commerce, 14th & Constitution Ave., NW., 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 please call Lee Ann Carpenter at (202) 377–2583.

Dated: September 14, 1989.

Betty Anne Ferrell,

Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 89–22130 Filed 9–19–89; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 15–89]

Foreign-Trade Zone 15, Kansas City, MO; Application for Subzone; Metcraft, Inc., Grandview, MO

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Kansas City Foreign-Trade Zone, Inc., grantee of FTZ 15, requesting special-purpose subzone status for the stainless steel sink plant of Metcraft, Inc., (affiliate of Emco, Ltd, Canada, in Grandview, Missouri, for export activity. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 5, 1989.

The Metcraft plant (13 acres) is located at 13910 Kessler Drive in Grandview, adjacent to the Kansas City

Customs port of entry. The facility (100 employees) is used to produce plumbing fixtures and food service equipment. Subzone procedures would be used for the production of stainless steel sinks for export. Stainless steel sink stampings would be purchased from its Canadian affiliate and would be finished by welding, rounding, edging and polishing. Stainless steel drainboards would be added to some models. The finished sinks would be exported to Canada.

Zone procedures would exempt Metcraft from Customs duty payments on foreign materials and components (mainly the stampings) used for its export production. The savings would help encourage increased export activity at the Grandview, Missouri, plant.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The Committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Theodore Galantowicz, District Director, U.S. Customs Service, North Central Region, 7911 Forsythe Blvd., Suite 625, Clayton, MO 63105; and, Colonel John Atkinson, District Engineer, U.S. Army Engineer District Kansas City, 700 Federal Building, Kansas City, Missouri 64106.

Comments concerning the proposed subzone are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 25, 1989.

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

U.S. Department of Commerce, District Office, 601 E. 12th Street, Room 635, Kansas City, Missouri 64106.

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

Dated: September 14, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-22218 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Holly Kuga or Richard W. Moreland, Office of Countervailing Compliance or Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786/2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22 (a)(1), (a)(2), (a)(3), and 355.22(a)(1) of the Department's regulations, for administrative reviews of varius antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than September 30, 1990.

Antidumping Duty Proceedings and Firms	Periods to be Reviewed
Hong Kong:	
Photo Albums and Filler Pages	12/1/86—11/30/87
A-582-501	
AICO	
Chung Wai	
Consolidated Powers	
Evergreen & Pych	
Marks Int'l.	
Mascotte	
Mirai Denshi	
Orient Consolidation	
Perfect Leather Ware	
Potex	
S & C Import Export	
Schenker	
Sun Woo	
Tradepower	
World Wide Stationery	
Israel:	
Industrial Phosphoric Acid	8/1/88—7/31/89
A-508-604	
Negev Phosphates	
Haifa Chemicals	
Italy:	
Granular PTFE Resin	4/20/88—7/31/89
A-475-703	
Montefluos SpA	
Japan:	
Brass Sheet and Strip	2/1/88—7/31/89
A-588-704	
Yoshida Kogyo KK	
Japan:	
Tapered Roller Bearings, 4 Inches or Less:	8/1/88—7/31/89
A-588-054	
Isuzu Motors Ltd.	
Toyota Motor Corp.	
Koyo	
NSK	
Nachi-Fujikoshi	
Japan:	
Television Receiving Sets, Monochrome & Color:	3/1/87—2/29/88
A-588-015	
Hitachi	
Sanyo	
Korea:	
Photo Albums and Filler Pages:	12/1/86—11/30/87
A-580-501	
C & G Corp.	
Chilsung	
Daimyong	
Donghun	
Korea:	
Photo Albums and Filler Pages:	12/1/86—11/30/87
A-580-501	
Eulji	
Hanil	
Hanyang	
Inwang	
Jeil	
Keywon	
Kyongjin	
Rayheung	
Samjin Merchandise	
Samjin Trading	
Sam Hwa	
Sam Joh	
Sang Jin	
Sejin	
Seyou	
Songwon	
Ujeon Trading	
Union Trading	
Gyeongjin	12/1/87—11/30/88
Korea Mdse. Export	
Namdu Sang	
Sammi	
Sam Young	
Shin Song	
Western Assembly	
Yonsei Shipping	
Netherlands:	
Brass Sheet and Strip:	2/8/88—7/31/89
A-421-701	
Metallverken Nederland BV	

Countervailing Duty Proceedings	Period to be Reviewed
Canada:	
Live Swine	4/1/88—3/31/89
C-122-404	
Israel:	
Industrial Phosphoric Acid	1/1/88—12/31/88
C-508-605	
Thailand:	
Certain Circular Welded Pipes and Tubes	1/1/88—12/31/88
C-549-501	

Countervailing Duty Proceedings	Period to be Reviewed
Venezuela:	
Certain Electrical Conductor Aluminum Redraw Rod	8/17/88—12/31/88
C-307-702	

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) or 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.22(c) and 355.22(c) of the Commerce Department's antidumping and countervailing duty regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) and December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 353.22(c) and 19 CFR 355.22(c)).

Dated: September 14, 1989.

Richard W. Moreland,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 89-22221 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-507]

Malleable Cast-Iron Pipe Fittings, Other Than Grooved, From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 9, 1989, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on malleable cast-iron pipe fittings, other than grooved, from Taiwan. The review covers five manufacturers and/or exporters of this merchandise to the United States and the period May 1, 1987 through April 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. We received one comment. Based on our analysis of that comment, we have changed the final results from those presented in our preliminary results.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3601/2923.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1989, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping duty order on malleable cast-iron pipe fittings, other than grooved, from Taiwan (51 FR 18918, May 23, 1986). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

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

Imports covered by this review are shipments of Taiwan malleable cast-iron pipe fittings, other than grooved. During this review period such merchandise was classified under items 610.7000 and 610.7400 of the Tariff Schedules of the United States Annotated. The merchandise is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 7307.19.10. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers five Taiwan manufacturers and/or exporters to the United States of malleable cast-iron pipe fittings, other than grooved, and the period May 1, 1987 through April 30, 1988. One firm had no shipments. For the four other firms, two of whom did not respond to our antidumping questionnaires and two of whom provided inadequate responses, we used the best information available.

Analysis of Comment Received

The petitioner, the Cast Iron Pipe Fittings Committee, asserts the Department erred in its preliminary results by using as best information available the margin published in the Final Determination of Sales at Less than Fair Value, without accounting for the substantial appreciation of the Taiwan dollar since that determination. The petitioner noted that in the preliminary and final results of our administrative reivew of the antidumping duty order on malleable cast-iron pipe fittings, other than grooved, from South Korea (54 FR 7577, February 22, 1989 and 54 FR 13090, March 30, 1989, respectively), the Department adjusted the margins to reflect currency appreciation during the review. The petitioner argues the Department should also follow that practice in this review.

Department's Position

We agree. We based the preliminary margins for these firms on the final results of the fair value investigation. In these final results, we have assumed that U.S. prices and home market prices in New Taiwan dollars remained constant. We recalculated the antidumping duty margins by converting the U.S. prices to New Taiwan dollars using the exchange rate in effect as of the date of the antidumping duty order. We then converted the result back to U.S. dollars using the average exchange rate for the review period.

Final Results of Review

Based on our analysis of that comment, we have changed the final results from those presented in our preliminary results, and we determine that the following margins exist for the period May 1, 1987 through April 30, 1988:

Manufacturer/exporter	Margin (percent)
De Ho	50.08
Kwang Yu	43.19
San Yang	69.68
Tai Yang	[1] 37.09
Young Shieng	138.81

[1] No shipments during the period; margin based on last period in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entities. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties shall be required on entries of this merchandise from these firms based on the above margins. For any entries from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1988 and who is unrelated to any reviewed firm, a cash deposit of 37.09 percent shall be required. This is in accordance with our practice of not using the most

recently reviewed rate as a basis for a cash deposit for new shippers when we have based the most recent rate on best information available. These deposit requirements are effective for all shipments of Taiwan malleable cast-iron pipe fittings, other than grooved, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with § 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's new regulations (54 FR 12742, March 28, 1989) (to be codified at 19 CFR 353.22).

Dated: September 12, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-22219 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-201-504]

Porcelain-on-Steel Cooking Ware From Mexico; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION. Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and two respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico. The review covers two manufacturers and/or exporters of this merchandise to the United States and the period May 20, 1986 through November 30, 1987. We preliminarily determine the dumping margins to be 5.80 percent and 2.86 percent. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1986, the Department published in the **Federal Register** (52 FR 43415) an antidumping duty order on porcelain-on-steel cooking ware from Mexico. The petitioners, General Housewares corporations and the Porcelain-On-Steel Committe of the Cookware Manufacturers' Association, and two respondents, Troqueles y Esmaltes ("TRES") and CINSA, requested in accordance with section 353.53a(a) of the Commerce Regulations (19 CFR 353.53a(a) (1988)) that we conduct an administrative review. We publish a notice of initiation on January 27, 1988 (53 FR 2262). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 as amended ("the Tariff Act").

Scope of Review

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

Imports covered by this review are shipments of porcelain-on-steel cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. During the review period, such merchandise was classifiable under item number 654.0818 of the Tariff Schedules of the United States Annotated ("TSUSA"). These products are currently classifiable under HTS item 7323.94.00. Kitchenware currently entering under item 7323.94.00.10 is not subject to the order. The TSUSA and HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers two manufacturers and/or exporters, TRES and CINSA, to the United States of Mexican porcelain-on-steel cooking ware and the period May 20, 1986 through November 30, 1987.

United States Price

In calculating United States price the Department used purchased price and exporter's sales price, as defined in section 772 of the Tariff Act. For those sales made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Act. In those cases where sales were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, we preliminarily determine that purchase price is the most appropriate determinant of United States price because:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyers, without being introduced into the inventory of the related selling agent;
2. Direct shipment from the manufacturers to the unrelated buyers was the customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent in the United States acted only as a processor of sale-related documentation and a communication link with the unrelated U.S. buyers.

Where all the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the transactions or the functions themselves.

For those sales to the first unrelated purchaser that took place after importation into the United States, we based United States price on exporter's sale price, in accordance with section 772(c) of the Tariff Act. Purchase price and exporter's sales price were based on the packed, f.o.b. price to unrelated purchasers in the United States. We made adjustments, where applicable, for brokerage fees, U.S. inland freight, foreign inland freight and insurance, commissions to unrelated parties, export selling expenses, and credit expenses. Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o * * * product shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Tariff Act which prohibits the assessment of dumping duties on the portion of the margin attributable to an export subsidy. Therefore, we have increased the U.S. price by an amount of the export subsidies found in the concurrent countervailing duty review. No other adjustments were claimed or allowed.

Foreign Market Value

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

Act, when sufficient quantities of such or similar merchandise were sold in the home market at or above the cost of production to provide a basis for comparison. Home market price was based on the packed, ex-factory or delivered price to related and unrelated purchasers in the home market. We considered sales to related parties because we found that such sales were at arm's-length prices. Where applicable, we made adjustments for inland freight, differences in credit expenses, discounts, rebates, commissions to unrelated parties, indirect U.S. selling expenses to offset those commissions, home market indirect selling expenses, and physical differences in the merchandise. Although we disallowed a claim for commissions to related parties as direct selling expenses, for ESP sales we allowed them as indirect selling expenses, not to exceed the amount of U.S. indirect selling expenses. We used constructed value for CINSA's home market models for which there were insufficient sales at or above the cost of production. In the calculation of cost of production and constructed value, we disallowed a claim that short-term and long-term interest expenses should be offset for foreign exchange gains and nonmonetary assets. Constructed value consisted of the sum of materials, fabrication, overhead, general expenses, profit, and U.S. packing. In accordance with section 773(e)(1)(B), we used the actual amount of general expenses and profit because those amounts were more than the statutory minimum of ten percent and eight percent, respectively.

Preliminary Results of the Review

As a result of our comparison of United States price with foreign market value, we preliminarily determine the margins to be:

Manufacturer/exporter	Time period	Margin (percent)
CINSA	5/20/86—11/30/87	2.86
TRES	5/20/86—11/30/87	5.80

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such comments or at a hearing.

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

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments of this merchandise manufactured or exported by the remaining known manufacturers and/or exporters not covered in this review, the cash deposit will continue to be at the rate published in the final determination of sales at less than fair value for these firms (52 FR 43415, December 2, 1986). For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1987 and who is unrelated to the reviewed firms or any previously reviewed firm, a cash deposit of 5.80 percent shall be required. These deposit requirements are effective for all shipments of Mexican porcelain-on-steel cooking ware entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's new regulations, published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22).

Dated: September 13, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-22220 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; University of California at Santa Barbara and The Johns Hopkins University

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they ae not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 88-281. *Applicant:* University of California at Santa Barbara, Department of Chemistry, Santa Barbara, CA 93106.

Docket Number: 88-285. *Applicant:* The Johns Hopkins University, Charles and 34th Streets, Baltimore, MD 21218.

Instrument: Rapid Kinetics Accessory, Model SFA-11. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Date of Denial Without Prejudice to Resubmission:* April 11, 1989.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89-22223 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-337-601]

Standard Carnations From Chile; Preliminary Results of Countervailing Duty Administrative Review

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

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

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on standard carnations from Chile. We preliminarily determine the net subsidy to be 10 percent *ad valorem* during the period February 3, 1987 through December 31, 1987. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: September 20, 1989.

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

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 3313) a countervailing duty order on standard carnations from Chile. On March 30, 1988, the petitioner, the Floral Trade Council, requested an administrative review of the order. We published the initiation on April 27, 1988 (53 FR 15083). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of Review

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

Imports covered by the review are shipments of Chilean standard carnations. During the review period, such merchandise was classifiable under item number 192.2130 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under item numbers 0603.10.70 and 0603.10.80 of the HTS. The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period February 3, 1987 through December 31, 1987 and two programs.

Analysis of Programs

(1) Simplified Drawback. Law 18,480 of December 1985 allows a rebate of 10 percent of the f.o.b. value of exports for those companies exporting products whose combined export value averaged $2.5 million or less in 1983 and 1984 and whose annual exports have not exceeded $7.5 million after 1986. This program is limited to non-traditional exports of national origin.

The Simplified Drawback program provides a standard 10 percent rebate in lieu of actual import duty drawback. Companies that do not directly import materials used for the production of goods to be exported are eligible to receive the rebate based solely on the fact that the product itself is exported. The Government of Chile provided no evidence to demonstrate that eligibility for and the amount of the rebate is tied to import duties paid. Instead, the Simplified Drawback rebates a percentage of the f.o.b. value of exports independent of the quantity and/or physical incorporation of imported material. Therefore, we preliminarily determine the benefit from this program during the review period to be 10 percent *ad valorem.*

Law 18,687 of January 5, 1988 reduced the amount of the rebate to 8 percent effective January 1, 1989. Therefore, for purposes of cash deposits of estimated countervailing duties, we preliminarily determine the benefit from this program to be 8 percent *ad valorem.*

(2) *Stamp and Seal Tax Exemption for Exporters.* The Stamp and Seal Tax (SST) affects all credit operations in Chile. Bills of exchange, letters of credit and any other document containing a loan or any other money credit transaction are subject to the SST. This tax amounts to 0.2 percent of the par value of the document per month, for a maximum limit of 2.4 percent for twelve months. As of November 7, 1985, the Government of Chile began exempting export credit operations from the SST. This exemption is limited to letters of exchange or promissory notes granted in foreign currency by banking enterprises domiciled in Chile. Exporters receiving these credits must prove that they have completed the export operation for which financing was obtained.

In the final determination (52 FR 3313; February 3, 1987), this program was found to be a countervailable export subsidy based on the best information available. Information provided in this review indicates that exporters of standard carnations did not use this program during the review period. Therefore, we preliminarily determine that this program did not confer a subsidy to exporters of the standard carnations during the review period.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 10 percent *ad valorem* during the period February 3, 1987 through December 31, 1987.

The Department intends to instruct the Customs Service to assess countervailing duties of 10 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 3, 1987 and exported on or before December 31, 1987.

As a result of the reduction in the rate of the Simplified Drawback, the Department also intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 8 percent of the f.o.b. invoice price on all shipments of standard carnations entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days from the date of publication or the first workday thereafter. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.22 of the Commerce Regulations published in the **Federal**

Register on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-22222 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Los Angeles, CA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $622,000 in Federal funds and a minimum of $109,765 in non-Federal contributions for the budget period February 1, 1990 to January 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Los Angeles, California geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and agency priorities.

CLOSING DATE: The closing date for applications is October 31, 1989. Applications must be postmarked on or before October 31, 1989.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Room 6723, Washington, DC 20230, 202-377-8275.

FOR FURTHER INFORMATION CONTACT: John F. Iglehart, Acting Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: September 12, 1989.

John F. Iglehart,

Acting Regional Director, Washington Regional Office.

[FR Doc. 89-22141 Filed 9-19-89; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Riverside, CA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $230,400 in Federal funds and a minimum of $40,659 in non-Federal contributions for the budget period February 1, 1990 to January 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Riverside, California geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and agency priorities.

CLOSING DATE: The closing date for applications is October 31, 1989. Applications must be postmarked on or before October 31, 1989.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Room 6723, Washington, D.C. 20230, 202–377–8275.

FOR FURTHER INFORMATION CONTACT: John Iglehart, Acting Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372. "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: September 12, 1989.

11,800 Minority Business Development (Catalog of Federal Domestic Assistance)

John Iglehart,

Acting Regional Director, Washington Regional Office.

[FR Doc. 89–22142 Filed 9–19–89; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Endangered Species; Application for Permit: Southwest Fisheries Center P77#36

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

1. *Applicant:* Dr. Izadore Barrett, Southwest Fisheries Center, La Jolla, California 92038.

2. *Type of Permit:* Scientific purposes.

3. *Name and Number of Marine Mammals:* Olive ridley sea turtles (*Lepidochelys olivaea*) 120.

4. *Type of Take:* Turtles will be captured, tagged, measured, photographed, and sampled, in a non-injurious manner, for stomach contents and blood. Objectives are to record data on geographic distribution of turtles at sea and to investigate their movements as well as the environmental and physiological factors that influence them. Specifically, the applicant will (1) record sightings and photograph animals for species identification, (2) measure, weigh and tag; (3) attach flipper tags; (4) collect blood samples for determining sex of juveniles and reproductive status of adults; and (5) collect stomach contents by lavage for identification of food items. These activities will be conducted during the Monitoring of Porpoise Stocks (MOPS) cruises in the eastern tropical Pacific, outside the 200 mile limit.

5. *Location of Activity:* eastern tropical Pacific over a 3-year period.

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 and Habitat Programs, National Marine Fisheries Service, 1335 East West Hwy., Room 7324, Silver Spring, Maryland; Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 14, 1989.

Nancy Foster,

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

[FR Doc. 89–22143 Filed 9–19–89; 8:45 am]

BILLING CODE 3510–22–M

Coastal Zone Management: Federal Consistency Appeals by Unocal Corporation and Mobil Exploration & Producing U.S. Inc. From Objections by the Florida Department of Environmental Regulation; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Public Hearing.

The Secretary of Commerce (Secretary) has received notices of appeal from Unocal Corporation (Unocal) and Mobil Exploration & Producing U.S. Inc. (Mobil). The Secretary received a notice of appeal from Unocal on December 22, 1988, and a notice of appeal from Mobil on January 12, 1989. Unocal and Mobil are appealing to the Secretary under section 307(c)(3)(B) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeals are taken from objections by the Florida Department of Environmental Regulation (FDER) to Unocal's and Mobil's consistency certifications for their proposed Plans of Exploration (POE) for leases on Pulley Ridge. Unocal's proposed POE involved leases on Pulley Ridge Area Blocks 629 (OCS–G 6491) and 630 (OCS–G 6492). Blocks 629 and 630 are located approximately 100 miles offshore of Naples, Florida and 45 miles north of the Dry Tortugas in the Gulf of Mexico. Mobil's proposed POE involves a lease on Pulley Ridge Area Block 799 (OCS–G 6520). Block 799 is located approximately 75 miles west of the southwest Florida mainland, and approximately 59 miles north of the islands of Dry Tortugas.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3)(B). To make such a determination, the Secretary must find that the proposed

project satisfies the requirements of 15 CFR 930.121 or 930.122.

Unocal and Mobil request that the Secretary override the FDER's consistency objections based on Grounds I and II. To make the determination that the proposed activity under each POE is "consistent with the objectives" of the CZMA, the Secretary must find that (1) the proposed activity furthers one or more of the national objectives or purposes contained in sections 302 or 303 of the CZMA; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest; (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act; and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with Florida's coastal management program. *See* 15 CFR 930.121. To make the determination that the proposed activity is "necessary in the interest of national security," the Secretary must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permited to go forward as proposed.

In order to minimize costs, one public hearing has been scheduled to address the findings the Secretary must make for each appeal as set forth in the regulations at 15 CFR 930.121 and 930.122. The public hearing will be held on September 29, 1989 from 12:15 to 10:00 p.m. at the Tennessee Williams Fine Arts Center (Center), Florida Keys Community College, 5901 Junior College Road, Key West, Florida. Persons interested in speaking at the hearing regarding any of the above criteria are required to register on the day of the hearing at the Center between 12:15 p.m. and 1:15 p.m. Oral comments from public interest/lobbyist groups will be recognized on first-come-first-serve basis and will be limited to seven minutes. Oral comments from the general public will be recognized on a first-come-first-serve basis and will be limited to five minutes. Written comments will be accepted at the public hearing.

FOR ADDITIONAL INFORMATION CONTACT: Kirsten Erickson, Attorney-Advisor, or Susan K. Auer, Attorney-Adviser, Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Comerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC, 20235; (202) 673–5200.

Dated: September 13, 1989.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[Federal Domestic Assistant Catalog No. 11.419 Coastal Zone Management Program Assistance]

[FR Doc. 89–22156 Filed 9–19–89; 8:45 am]

BILLING CODE 3510–08–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Regulation 1007.02 Establishing Modified Closing Call Procedures for All Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed new contract market rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined pursuant to section 5a(12) of the Commodity Exchange Act ("Act") to review for approval of the Chicago Board of Trade's ("CBT") proposed new Regulation 1007.02. The proposed regulation would establish an additional two-minute trading period for all contracts at the conclusion of their regular trading sessions. During this period, transactions could take place only at prices within the previously established closing range. Individual CBT members could trade for their own accounts without any other limitation. Other market participants could trade only to the extent that they had placed orders during regular trading hours which were executable at the close but were not executed. Cancellation of such orders during the additional period would be permitted. The Commission has determined that publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Act.

DATE: Comments must be received by October 20, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

A. Background

By letter dated May 1, 1989, the CBT submitted proposed new Regulation 1007.02 under Commission Regulation 1.41(c). In a letter to the CBT dated May 24, 1989, the Division of Trading and Markets ("T&M" or "Division"), acting pursuant to the authority delegated by Regulation 1.41a(a)(1), remitted the submission to the Exchange for failure to meet the form and content requirements of Regulation 1.41(b). The Division set forth 18 items to be addressed in any resubmission. The CBT responded and resubmitted the proposal in a letter dated July 13, 1989. On July 24, 1989, the Commission determined to review the proposal for approval pursuant to section 5a(12) of the Act.

B. The Proposed Modified Call Procedure

The proposed Exchange regulation would establish an additional two-minute trading period for all contracts at the conclusion of their regular trading sessions. During this period, transactions could take place only at prices within the previously established closing range. Individual CBT members could trade for their own accounts without any other limitation. Other market participants, could trade only to the extent that they had placed orders during regular trading hours which were executable at the close but were not executed. Cancellation of such orders during the initial period would be permitted.

In support of the proposal, the CBT represented that market-on-close orders, when entered late, can cause problems in achieving a narrow closing range. The CBT indicated that the proposal is needed because the closing ranges in Exchange contracts have recently become wider. The Exchange did not provide any data in support of this assertion. The CBT believes that its proposed modified closing call procedures would tighten the closing range because individual floor traders, knowing that they could "even-up" their positions during the additional two-minute period, might be more willing to trade during the regular trading session close. The CBT contends that this narrower closing range would thus facilitate a more accurate settlement price which frequently is the basis for cash market pricing.

The Exchange represents that the establishment of a modified closing call also would benefit public customers with market-on-close orders because

those orders would be executed during a more liquid closing session. The CBT additionally asserted that transactions executed during the modified closing call's additional two-minute period should not be at an advantage to those made previously in the market because of the restriction of prices to those established prevoiusly by the closing range.

II. Request for Comments

The Commission requests comments on any aspect of proposed CBT Regulation 1007.02 that members of the public believe may raise issues under the Act or the Commission's regulations. In particular, the Commission has identified the following matters for which comment may be appropriate:

1. Would there be potential for floor traders to take advantage of customer orders by taking the opposite side of customer buy orders at the higher prices in the range and customer sell orders at the lower prices in the range? If so, would such potential be greater than at other times during the trading session?

2. Would there be a potential for any other trade practice abuses under the modified closing call? If so, would such potential be greater than at other times during the trading session?

3. Would it be appropriate for the Exchange to adopt any particular safeguards, such as enhanced surveillance to prevent and/or detect any trade practice abuses identified in response to the foregoing question? If so, would such safeguards be effective?

4. Does the provision of the proposal that would permit only CBT members, trading for their own accounts, to initiate trades raise any anticompetitive concerns under Section 15 of the Act?

5. Is there any empirical evidence that the closing ranges at the CBT recently have become wider? If so, is this widening due to the nature of the current closing procedures or some other cause?

6. Would a modified closing call divert volume from the regular trading session to the call? If so, how would this diversion affect the hedging and price discovery functions of the regular trading session?

7. Are there alternative means available to achieve the purposes of the proposal? For instance, could the CBT require that trading during the modified closing call take place at a single price such as the settlement price or the midpoint of the closing range?

8. Would the proposed modified closing call lead to a more efficient closing range?

9. Would there be any other costs or benefits that may result from the proposal that should be considered?

Copies of the CBT's original submission, T&M's May 24, 1989 remittal letter, and the CBT's response are each available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314.

Any person interested in submitting written data, views or arguments on the proposed regulation, or with respect to other materials submitted by the CBT in support of its submission, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on September 15, 1989.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–22161 Filed 9–19–89; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Inland Waterways Users Board; Meeting

AGENCY: Corps of Engineers, Department of the Army, DOD.

ACTION: Notice of open meeting.

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

NAME OF COMMITTEE: Inland Waterways Users Board.

DATE OF MEETING: October 23, 1989.

PLACE: Quality Inn—Capitol Hill, 415 New Jersey Avenue NW., Washington, DC 20001.

Time: 9:00 to 5:00 p.m.

Proposed Agenda

AM Session

9:00 Business Session
—Call to Order.
—Disposition of Prior Meeting Minutes.
9:15 Presentation of Information to Board
—Project Peer Review: Life Cycle Project Management Overview.
10:15 Break.
10:45 Montgomery Point Lock and Dam.
11:00 Construction Projects Update.
11:15 Status of Appropriations Activities.
11:30 —Lunch.

PM Session

12:30 Staff Support to Board.
12:45 Trust Fund Analysis.
1:00 Regional Investment Assessments.
1:30 Development of Board Recommendations.
2:15 Break.
2:30 Development of Annual Report.
3:30 Other Business.
4:00 Public Comment Period.
4:30 Instructions to Support Staff.
5:00 Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

For Further Information, Contact: Mr. David B. Sanford, Jr., Headquarters, U.S. Army Corps of Engineers, CECW–P, Washington, DC 20314–1000 at (202) 272–0146.

Wilbur T. Gregory, Jr.,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 89–22198 Filed 9–19–89; 8:45 am]

BILLING CODE 3710-92-M

Coastal Engineering Research Board; Meeting

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

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: October 17–19, 1989.

Place: Sheraton at Redondo Beach, Redondo Beach, California.

Time: 7:30 a.m. to 5:30 p.m. on October 17; 8:15 a.m. to 4:50 p.m. on October 18; 8:30 a.m. to 10:20 a.m. on October 19.

Theme: Pacific Coastal and Navigation Challenges.

Proposed Agenda: The morning session on October 17 will consist of reviews of CERB business, the Coastal Engineering Research and Development Program, and State of California activities, an update of the Dredging Research Program; South Pacific Division Research Needs; and an overview of the field trip.

The afternoon of October 17 will be devoted to a boat tour of Redondo Beach (King Harbor), El Segundo Beach Nourishment, Marina Del-Rey, Santa Monica Breakwater and Pier, Rancho Palos Verdes, and the Ports of Los Angeles and Long Beach.

The session on October 18 will consist of three separate topics with several presentations under each topic. The first topic is to be the Los Angeles/Long Beach

(LA/LB) Harbors which includes presentations entitled LA/LB 2020 Plan; LA/LB Model Upgrade; LA/LB Model Upgrade—Field Data Collection; and LA/LB Model Upgrade—3–D Circulation/Water Quality Models. The second topic is to be Unique Coastal Challenges, which includes Surfing and Coastal Projects; Crescent City Dolos Project—Field Measurements and Design Methodology; Oceanside Sand Bypass System; and Coast of California Study. The third topic is to be Pacific Harbors, which includes King Harbor; King Harbor Model Studies; Barbers Point; and Barbers Point Studies.

On October 19 there will be a presentation on the Pacific Ocean Division research needs and recommendations by members of the Board.

This meeting is open to the public; participation by the public is scheduled for 8:35 a.m. on October 19.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Larry B. Fulton, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

Larry B. Fulton,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 89–22197 Filed 9–19–89; 8:45 am]

BILLING CODE 3710–92–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, September 27, 1989 beginning at 1:30 p.m. in the Schooner Room of the University of Delaware's Virden Residential Conference center on Pilottown Road in Lewes, Delaware.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location and will include a presentation on the Commission's flood loss reduction program as well as status reports on the upper Delaware ice jam project and amendment of Compact section 15.1(b) to fund the Francis E. Walter Reservoir project.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Olde Colonial Greene Property Owners Assocation D–73–20 CP (Revised) RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 2.43 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 1 and 2. Commission approval on June 27, 1984 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 2.43 mg/30 days. The project is located in Doylestown Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

2. *Hackettstown Municipal Utilities Authority D–81–56 CP RENEWAL (Revised).* An application to revise the docket approved March 25, 1987, in order to increase the withdrawal from Well No. 6 to meet peak water demands, without an increase in total water allocation. The applicant requests that decision condition "d." be revised to limit the withdrawal from Well No. 6 to 30 mg/30 days, and that the total withdrawal from all wells and surface water sources remain limited to 75 mg/30 days. Well No. 6 is located in Washington Township, Morris County, New Jersey.

3. *Borough of Elmer D–85–24 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply water to the applicant's distribution system from Well Nos. 6 and 8. Commission approval on May 29, 1985 was limited to four years and will expire unless renewed. The applicant requests that the total withdrawal from all wells be increased from 7.84 mg/30 days to 10.0 mg/30 days. The project is located in Elmer Borough, Salem County, New Jersey.

4. *Willingboro Municipal Utilities Authority (WMUA) D–87–1 CP (Revised).* An application to expand the WMUA wastewater treatment plant service area to include the Florence Land Recontouring Landfill, which is located in the Township of Florence, Burlington County, New Jersey. Provisions for this wastewater were included in the facility approved by Docket D–87–1 CP.

5. *White Horse Village Inc. D–87–86.* A revised application to expand a sewage treatment plant from 0.045 million gallons per day (mgd) average design capacity to 0.052 mgd. The plant is to serve a residential development in Edgmont Township, Delaware County, Pennsylvania. The facilities will provide tertiary treatment through the year 2010. Treatment plant effluent will discharge to the ground through a subsurface pipe gallery on a year-round basis.

6. *Pennsylvania Department of Environmental Resources (PADER) D–88–48 CP.* An application for inclusion of the Lower Brandywine Scenic River designation under Pennsylvania's Scenic Rivers Act (No. 283 of 1972) in DRBC's Comprehensive Plan. To be included are the main stem Brandywine and segments of the East Branch Brandywine, West Branch Brandywine, Pocopson Creek, Valley Creek, Broad Run, Buck Run, Doe Run, and two unnamed tributaries in Newlin Township. Pennsylvania officially designated the Lower Brandywine as a Scenic River on June 16, 1989 by Act No. 1989–7 (Senate Bill 578 of 1989).

7. *The McKee Group D–89–5.* An application to construct a 0.1 mgd sewage treatment plant to serve a housing and commercial development to be known as the Village of Buckingham Springs, located in Buckingham Township, Bucks County, Pennsylvania. The plant is designed to provide phosphorus precipitation, effluent filtration, plus carbon oxidation and nitrification (via the sequencing batch reactor process). Treatment plant effluent will be pumped to stormwater retention basins at the upper end of the development and discharged to an unnamed, intermittent tributary of Mill Creek in the Neshaminy Creek watershed.

8. *J.T. Baker, Inc. D–89–7.* An application for approval of a ground water withdrawal project to withdraw water from the applicant's ground water decontamination system from new Well Nos. SRW–1, –2, –3, –5, –6, –7, –8, –9, –10, –11, –12 and –19, and to limit the withdrawal from all wells to 92.82 mg/30 days. The project is located in the Town of Phillipsburg and Lopatcong Township, Warren County, New Jersey.

9. *Horsham Township Authority D–89–14 CP.* An application for the revision of a ground water withdrawal project to supply up to 34.86 mg/30 days of water to the applicant's water supply system from Well Nos. 19 and 26. Commission approval on September 22, 1982 of Docket No. D–81–1 CP was limited to five years and was extended for the duration of a long term pump test. Commission approval on December 12, 1984 of Docket No. D–79–30 CP RENEWAL was limited to five years and will expire unless renewed. Docket No. D–89–14 CP combines Docket Nos. D–81–1 CP, which has expired, and D–

79–30 CP RENEWAL. The applicant requests that the total withdrawal from all wells remain limited to 82.8 mg/30 days. The project is located in Horsham Township, Montgomery County, and is in the Southeastern Pennsylvania Ground Water Protected Area.

10. *Tennanah Lake Community Water Company, Inc. D–89–35 CP.* An application for approval of a ground water withdrawal project to supply up to 9.9 mg/30 days of water to the applicant's distribution system from New Well Nos. 1 and 2, and Old Well Nos. 1 through 6. The project is located in the Town of Fremont, Sullivan County, New York.

11. *Borough of Kutztown D–89–39 CP.* An application to upgrade an existing 1.5 mgd sewage treatment plant (STP) in order to meet new discharge criteria requiring the reduction of ammonia nitrogen in the effluent. There will be no increase in average design capacity in the proposed tertiary treatment upgrade. Wastewater from the STP discharges to the Sacony Creek, located just northwest of the Borough of Kutztown, Maxatawny Towhsnip, Berks County, Pennsylvania.

12. *Allen Family Foods, Inc. D–89–43.* An application for approval of a ground water withdrawal project to supply up to 25.3 mg/30 days of water to the applicant's poultry processing facility from existing Well Nos. 1 through 6, previously approved under the ownership of Cargill, Inc.—Paramount Poultry, and to increase the existing withdrawal limit of 20.736 mg/30 days from all wells to 25.3 mg/30 days. The project is located in the Village of Harbeson, Sussex County, Delaware.

13. *J.G. Townsend, Jr. & Company D–89–48.* An application for approval of a ground water withdrawal project to supply up to 15 mg/30 days of water to the applicant's vegetable processing facility from existing Well Nos. 1 and 5, and to limit the withdrawal from all wells to 15 mg/30 days. The project is located in the Town of Georgetown, Sussex County, Delaware.

14. *Township of Greenwich D–89–49 CP.* An application for approval of a ground water withdrawal project to supply up to 46.8 mg/30 days of water to the applicant's distribution system from existing Well Nos. 5 and 6, and to limit the withdrawal from all wells to 46.8 mg/30 days. the project is located in Greenwich Township, Gloucester County, New Jersey.

15. *Formosa Plastics Corporation D–89–54.* An application to upgrade a 0.8 mgd industrial wastewater treatment plant. To minimize and control pH fluctuations, the applicant will improve neutralization capabilities of the plant. Treated process and non-process wastewaters generated at the applicant's polyvinyl chloride resins production plant site will be combined in a neutralization basin and conveyed via a single pipe to the Star sluiceway which enters the Delaware River in Water Quality Zone 5. The project is located on Schoolhouse Road in Delaware City, New Castle County, Delaware.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: September 12, 1989.

Susan M. Weisman,

Secretary.

[FR Doc. 89–22120 Filed 9–19–89; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Office of Management

Membership of the Performance Review Board

AGENCY: Department of Education.

ACTION: Notice of Membership of the Performance Review Board.

SUMMARY: Notice is hereby given of the names of members of the Department of Education Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Althea Watson, Director, Executive Resources Staff, Office of Personnel Management Service, Office of Management, Department of Education, [Room 1187A, FOB 6], 400 Maryland Avenue SW., Washington, DC 20202, Telephone: [202] 732–5546.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review and evaluate the initial appraisal of a senior executive's performance along with any comments by other senior executives and any higher level executive and make recommendations to the appointing authority relative to the performance of the senior executive.

Membership

The following executives of the Department of Education have been selected to serve on the Performance Review Board of the Department of Education: Alicia Coro, Chair, Richard LaPointe, D. Kay Wright, Douglas Ponci, Carol Fox, Richard Fairley, Ronald Oleyar, Milton Goldberg, Emerson Elliott, Thomas Skelly, Carol Cichowski, Ernest Canellos, William Smith, Charles O'Malley, Mary Jean LeTendre, Susan Craig, Theodore Sky, John Haines, Carl O'Riley, James Holmberg, Steven McNamara, Dick Hays.

Dated: September 14, 1989.

Gary J. Rasmussen,

Acting Deputy Under Secretary for Management.

[FR Doc. 89–22133 Filed 9–19–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held September 27–29, 1989, at the office of the IEA, 2, rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a workshop on the subject of "Practical Aspects of Stockholding and Stockdraw" which is scheduled to be conducted at the offices of the IEA on these dates by the Secretariat of the IEA for representatives of Participating Countries. The agenda for the meeting is under the control of the Secretariat. It is expected that the agenda will cover the following subjects:

1. Opening of the Workshop
2. Opening Remarks/Introduction by the Secretariat
3. First Session—Government, Entity and Company Stockholding Systems and Stockdraw Potential
   (i) Introductory remarks by rapporteur
   (ii) Presentations
   (a) Optimal structure of emergency stocks in terms of stockholding and stockdraw
   (b) Stockholding system of Japan
   (c) The U.K. stockholding system
   (d) Typical company stockholding system
   (e) The U.S. SPR: Policy and decision-making process
   (f) Stock reporting systems
   (g) Quality control of long-term stocks

(iii) Discussion
(iv) Summary remarks by rapporteur
4. Second Session—Procedures, Conditions and Restrictions for Releasing Stocks
(i) Introductory remarks by rapporteur
(ii) Presentations
(a) Procedures for drawing down the U.S. SPR
(b) Procedures for drawing down Japan's government stocks
(c) Procedures for drawing down Italy's government stocks
(d) Procedures for drawing down Germany's emergency stocks
(e) COVA stockdraw procedures
(f) Procedures for drawing down Danish FDO stocks
(g) Drawdown of company held stocks
(h) Test release experience and training
(iii) Discussion
(iv) Summary remarks by rapporteur
5. Third Session—Stockdraw and the Market: Implementation and Monitoring of Stockdraw
(i) Introductory remarks by rapporteur
(ii) Presentations
(a) Possible actions that can be taken by government to implement stockdraw
(b) Government measures to ensure industry compliance with government decisions
(c) The combination of stockdraw and demand restraint: An approach to prevent hoarding
(d) Monitoring stockdraw
(e) Macroeconomic impact of stockdraw
(iii) Discussion
(iv) Summary remarks by rapporteur
6. Summary/Closing Remarks by the Chairman/Secretariat

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the foregoing meetings are open only to representatives of members of the IAB, their counsel, representatives of Participating Countries, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB, or the IEA.

Issued in Washington, DC, September 13, 1989.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 89-22243 Filed 9-19-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 89-12-NG]

ICG Utilities (Ontario) Ltd.; Order Granting Authorization To Import Natural Gas From and Export Natural Gas To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order granting authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting ICG Utilities (Ontario) Ltd. (ICG), authorization to import from Canada up to 8,267,250 Mcf of natural gas per year and to subsequently export the same gas back to Canada over a term of 15 years beginning November 1, 1990, and ending on October 31, 2005. The import/export is part of a transportation arrangement to move gas from one part of Canada to another part of Canada via a pipeline that traverses the State of Minnesota for a short distance, and would not result in a net import of natural gas into the United States.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 12, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-22230 Filed 9-19-89; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 89-19; Certification Notice—45]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant; TECO Power Services Corp.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the Federal Register a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self-certification in accordance with section 201(d).

Further information is provided in the "**SUPPLEMENTARY INFORMATION**" section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
TECO Power Services Corporation, Tampa, FL	09-05-89	Combined Cycle Cogen	440	Tampa Bay, FL.

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

Copies of this self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC, on September 13, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89-22231 Filed 9-19-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

Award of a Cooperative Agreement, Noncompetitive Financial Assistance; Manufacturing and Technology Conversion International, Inc.

AGENCY: Oak Ridge Operations Office, Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.149(e)(1), it intends to award a noncompetitive financial assistance cooperative agreement for a research project to be conducted by the Manufacturing and Technology Conversion International Inc. (MTCI) to perform research and development required to assemble and test a pilot scale, modular, 0.25 ton per hour (tph) black liquor recovery system.

MTCI has developed a proprietary pulse-enhanced, indirect, steam gasification technology. The MTCI indirect gasification recovery process is carried out at relatively low temperatures, avoiding "smelt" and the possibility for explosions and also reducing capital costs and improves energy productivity significantly. This award will provide funds to continue development of the technique and apply it to a 0.25 ton per hour black liquor recovery pilot system.

Project Scope: MTCI will perform research on process characterization testing and field tests of a 0.25 ton per hour pilot-scale, modular, black liquor recovery system on transportable pallets. The MTCI will research and develop a high throughput modular system that produces a medium BTU gas with a flame temperature almost identical to natural gas. The approach is based on MTCI proprietary indirectly heated thermochemical reactor technology that significantly enhances heat and mass transfer in reactors. Also, it would eliminate the product gas diluents of partial oxidation or oxygen-blown gasification systems. MTCI's developmental program has carefully adhered to scientific and engineering principles, thereby providing a well documented technology data base that provide creditable and reproducible information substantiating the value and merit of its unique and innovative process.

Eligibility for the award of this cooperative agreement is being limited to MTCI because of the unique technique that has been developed. No other research facility has demonstrated the skill, technical expertise, facilities and resources which are required in order to provide a pulse-enhanced, indirect, black liquor gasifier pilot system.

The term of this cooperative agreement is for two years and will commence October 16, 1989 and end October 15, 1991. The total estimated cost of this award is $1,726,992 with DOE providing $1,285,629.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Conservation and Renewable Energy, Improved Energy Productivity Branch, ATTN: Stanley F. Sobczynski, Washington, DC 20585.

Peter D. Dayton,

Director, Procurement and Contracts Division, Oak Ridge Operations.

[FR Doc. 89-22229 Filed 9-19-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3749-007 Montana]

Mitex Inc.; Availability of Environmental Assessment

September 14, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for Major License for the proposed Yellowtail Afterbay Dam Hydroelectric Project, located on the Bighorn River in Bighorn County, Montana, and prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significant affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices, at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22176 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3944-002 Illinois]

City of Rockdale; Availability of Environmental Assessment

September 14, 1989.

This Notice supersedes the previous notice dated September 5, 1989, (54 FR 37713) September 12, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Brandon Road Lock and Dam Hydroelectric Project on the Illinois River in Will County, Illinois, near Rockdale, Illinois, and has prepared a draft Environmental Assessment (EA) for the proposed project.

Copies of the EA are available for review in the Public Reference Branch, Hearing Room A, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Please affix Project No. 3944-002 to all comments. For further information, please contact Marc Zimmerman, Environmental Assessment Coordinator, at (202) 376-9052.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22174 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-2036-000, et al.]

El Paso Natural Gas Co. et al.; Natural Gas Certification Filings

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

1. El Paso Natural Gas Company

[Docket No. CP89-2036-000]

September 7, 1989

Take notice that on August 31, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-2036-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for ASARCO Incorporated (ASARCO) under its blanket certificate issued in Docket No. CP88-433-000 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.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for ASARCO would be 21,733 MMBtu equivalent of natural gas, 10,972 MMBtu equivalent of natural gas and 4,004,780 MMBtu equivalent of natural gas, respectively.

El Paso indicates that transportation service for ASARCO was initiated under part 284, subpart B of the Commission's Regulations on February 1, 1986, and that El Paso filed an initial report with the Commission in accordance with § 284.106(a) on February 28, 1986 in Docket No. ST86-1031-000. El Paso states that ASARCO and El Paso have agreed to continue such transportation under subpart G of the Commission's Regulations and to terminate the subpart B transaction upon receipt of the appropriate regulatory approvals for the subpart G transaction.

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. El Paso Natural Gas Company

[Docket No. CP89-2037-000]

September 7, 1989.

Take notice that on August 31, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-2037-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Chemstar, Inc. as sucessor-in-interest to Can-Am Corporation, Paul Lime Division (Chemstar) under its blanket certificate issued in Docket No. CP88-433-000 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.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for Chemstar would be 6,541 MMBtu equivalent of natural gas, 2,638 MMBtu equivalent of natural gas and 962,870 MMBtu equivalent of natural gas, respectively.

El Paso indicates that transportation service for Chemstar was initiated under part 284, subpart B of the Commission's Regulations on February 1, 1986, and that El Paso filed an initial report with the Commission in accordance with § 284.106(a) on February 28, 1986 in Docket No. ST86-1027-000. El Paso states that Chemstar and El Paso have agreed to continue such transportation under subpart G of the Commission's Regulations and to terminate the subpart B transaction upon receipt of the appropriate regulatory approvals for the subpart G transaction.

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. El Paso Natural Gas Company

[Docket No. CP89-2039-000]

September 7, 1989.

Take notice that on August 31, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-2039-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for ASARCO Incorporated (ASARCO) under its blanket certificate issued in Docket No. CP88-433-000 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.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for ASARCO would be 13,715 MMBtu equivalent of natural gas, 105 MMBtu equivalent of natural gas and 38,325 MMBtu equivalent of natural gas, respectively.

El Paso indicates that transportation service for ASARCO was initiated under part 284, subpart B of the Commission's Regulations on February 1, 1986, and that El Paso filed an initial report with the Commission in accordance with § 284.106(a) on February 28, 1986 in Docket No. ST86-1023-000. El Paso states that ASARCO and El Paso have agreed to continue such transportation under subpart G of the Commission's Regulations and to terminate the subpart B transaction upon receipt of the appropriate regulatory approvals for the subpart G transaction.

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP89-2031-000]

September 7, 1989.

Take notice that on August 30, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-2031-000 a request pursuant to § 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Magma Copper Company (Magma) under its blanket certificate issued in Docket No. CP88-433-000 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.

El Paso states that the maximum daily, average daily and annual quantities that it would transport for Magma would be 29,012 MMBtu equivalent of natural gas, 21,100 MMBtu equivalent of natural gas and 7,701,500 MMBtu equivalent of natural gas, respectively.

El Paso indicates that transportation service for Magma was initiated under part 284, subpart B of the Commission's Regulations on February 1, 1986, and that El Paso filed an initial report with the Commission in accordance with § 284.106(a) on February 28, 1986 in Docket No. ST86-1033-000. El Paso states that Magma and El Paso have agreed to continue such transportation under subpart G of the Commission's Regulations and to terminate the subpart B transaction upon receipt of the appropriate regulatory approvals for the subpart G transaction.

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Natural Gas Pipeline Company of America

[Docket No. CP89-2063-000]

September 8, 1989.

Take notice that on September 6, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148 filed in Docket No. CP89-2063-000 a request pursuant to § 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 Texaco Gas Marketing Inc. (Texaco), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP86-582-000 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.

Natural proposes to transport on an interruptible basis up to 150,000 MMBtu of natural gas equivalent per day plus any additional volumes accepted pursuant to the overrun provision of Natural's Rate Schedule ITS, on behalf of Texaco pursuant to a gas transportation agreement dated June 15, 1989, between Natural and Texaco. Natural would receive the gas at various existing points of receipt on its system in Texas, offshore Texas, New Mexico, Louisiana, offshore Louisiana, Oklahoma and Kansas and redeliver equivalent volumes, less fuel and lost

and unaccounted for volumes, at various existing delivery points in offshore Texas, Louisiana and offshore Louisiana.

Natural further states that the estimated average daily and annual quantities would be 50,000 MMBtu and 18,250,000 MMBtu, respectively. Service under Section 284.223(a) commenced on July 1, 1989, as reported in Docket No. ST89–4690–000, it is stated.

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP89–2052–000]

September 8, 1989.

Take notice that on September 5, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148 filed in Docket No. CP89–2052–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport, on an interruptible basis, up to a maximum of 30,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for Kimball Resources, Inc. (Kimball), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP86–582–000 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.

Natural states that pursuant to an Interruptible Transportation Service Agreement dated April 12, 1989, Natural is obligated to accept for transportation, on an interruptible basis, no more than 30,000 MMBtu per day of natural gas. Natural further states that Kimball may request and Natural may agree to accept additional quantities as overrun gas. Natural indicates that Kimball has advised Natural that the volumes anticipated to be transported on an average day would be 15,000 MMBtu. Natural further indicates that based on that average day figure, the annual volumes to be transported would be 5,475,000 MMBtu. Natural states that the receipt points would be located in the states of Texas, Louisiana, Illinois, Arkansas and Kansas and the delivery points would be located in the states of Louisiana, Illinois, Texas, Iowa, Arkansas, Nebraska and Missouri.

Natural states that it commenced the transportation of natural gas for Kimball on July 1, 1989, at Docket No. ST89–4659–000, for a one hundred and twenty (120) day period pursuant to § 384.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Gas Transmission Corporation

[Docket No. CP89–2059–000]

September 8, 1989.

Take notice that on September 6, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–2059–000 a request pursuant to § 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 Krupp & Associates (Krupp), 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 February 10, 1989, under its Rate Schedule IT, it proposes to transport up to 50,000 MMBtu per day equivalent of natural gas for Krupp. 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 delivery points in Ohio and Kentucky, as shown in Exhibit "C" of the agreement.

Texas Gas advises that service under § 284.223(a) commenced July 19, 1989, as reported in Docket No. ST89–4321–000. Texas Gas further advises that it would transport 50,000 MMBtu on an average day and 1,825,000 MMBtu annually.

Comment date: October 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. CNG Transmission Corporation

[Docket No. CP89–2058–000]

September 11, 1989.

Take notice that on September 5, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP89–2058–000 a prior notice request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate two new delivery points for Hope Gas, Inc. (Hope), an existing jurisdictional customer, under the certificate issued in Docket No. CP82–537–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG proposes to add one new delivery point for Hope on its existing 10-inch Line No. TL–387, near Dorsey Knob in the Morgantown, West Virginia area (Dorsey Knob Connection). A maximum daily quantity of 100 dekatherms of natural gas would be delivered to Hope at the Dorsey Knob Connection and the annual deliveries at this point would not exceed 8,240 dekatherms of natural gas. The second new delivery point for Hope would be added on CNG's existing 12-inch Line No. TL–323, new Westover also located in the Morgantown, West Virginia area (Westover Mall Connection). CNG assets that it would deliver a maximum daily quantity of 1,000 dekatherms of natural gas to Hope at the Westover Mall Connection and the annual deliveries at this point would not exceed 44,300 dekatherms of natural gas.

CNG assets that Hope has requested the two new delivery points to enable it to better serve the total and future requirements of its customers in the vicinity of Monongalia County, West Virginia. Hope claims that the gas which it would purchase at the two new delivery points would be used in its system supply, to meed its market requirements in the surrounding area.

CNG alleges that it currently sells natural gas for resale to Hope under Rate Schedule RQ of its FERC Gas Tariff, Original Volume No. 1, and pursuant to a Janaury 1, 1988, service agreement. CNG asserts that under the service agreement and Rate Schedule RQ, it is authorized to provide Hope with all the natural gas it needs to meet its requirements within the state of West Virginia. CNG claims that its existing tariff permits such deliveries and the total quantities to be delivered to Hope would not exceed authorized sales levels.

CNG asserts that it has sufficient capacity to accomplish the deliveries to Hope without determent or disadvantage to its other customers. It is claimed that the proposed deliveries would have a *de minimus* impact on CNG's system-wide peak day and annual deliveries.

CNG alleges that it would construct and operate the facilities necessary to deliver the gas to Hope at both delivery points including measuring and regulating facilities. The total estimated cost of all facilities required for the Dorsey Knob Connection is $15,200, and the total estimated cost of all facilities required for the Westover Mall Connection is $50,000. It is asserted that Hope has agreed to reimburse CNG for the cost of constructing all associated facilities for both delivery points.

Comment date: October 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Black Marlin Pipeline Company

[Docket No. CP89-2033-000]

September 11, 1989.

Take notice that on August 30, 1989, Black Marlin Pipeline Company (Black Marlin) 1400 Smith Street, Houston, Texas, 77002, filed in Docket No. CP89-2033-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a firm transportation service provided by Black Marlin for Northern Natural Gas Company, Division of Enron Corp. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Black Marlin states that it was authorized, by Commission order issued in Docket No. CP80-397, as amended, to transport, on a firm basis, up to 25,000 Mcf of natural gas per day for Northern. Black Marlin further states that a transportation agreement, dated May 1, 1986, provided for an initial term ending May 1, 1988, and year to year thereafter until terminated by either party on 90 days prior notice. Black Marlin asserts that, by letter dated January 23, 1989, Northern advised Black Marlin that it desires to terminate the firm transportation service and desires to have the transportation continued on an interruptible basis under Black Marlin's blanket certificate.

Comment date: October 2, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. Natural Gas Pipeline Company of America

[Docket No. CP89-2054-000]

September 11, 1989.

Take notice that on September 5, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-2054-000 a request pursuant to § 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 Coastal Gas Marketing Company (Coastal), a marketer of natural gas, under its blanket authorization issued in Docket No. CP86-582-000 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.

Natural would perform the proposed interruptible transportation service for Coastal, pursuant to an interruptible transportation service agreement dated April 24, 1989. The transportation agreement is effective for a primary term ending June 1, 1994, and shall continue month to month thereafter unless terminated by five days prior notice by either party. Natural proposes to transport up to a maximum of 300,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS). Coastal advised Natural that the volume anticipated to be transported on an average day is 60,000 MMBtu; and based on that average day figure, the annual volume to be transported is 21,900,000 MMBtu. Natural proposes to receive the subject gas at various points located in the states of Arkansas, Illinois, Louisiana, Offshore Louisiana, Texas and offshore Texas. It is stated that the delivery points are located Offshore Louisiana and Offshore Texas. Natural avers that no new facilities are required to provide the proposed service.[1]

It is explained that the proposed service is currently being peformed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on July 1, 1989, as reported in Docket No. ST89-4669-000.

Comment date: October 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Natural Gas Pipeline Company of America

[Docket No. CP89-2050-000]

September 11, 1989.

Take notice that on September 1, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-2050-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for Texarkoma Transportation Company (Texarkoma) under the blanket certificate issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all or more fully set forth in the request on file with Commission and open to public inspection.

Natural states that pursuant to a Transportation Agreement dated July 1, 1989, it proposes to transport, on a firm basis, up to a maximum of 29,000 MMBtu, plus any additional volumes accepted pursuant to the overrun provision of Natural's Rate Schedule FTS, for Texarkoma. The receipt points are located in Texas and Louisiana and the delivery points are located in Illinois and Texas.

Natural also states that it will transport approximately 29,000 MMBtu on an average day and approximately 10,585,000 MMBtu on an annual basis.

Natural further states it commenced this service on July 31, 1989, as reported in Docket No. ST89-4343-000.

Comment date: October 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Texas Gas Transmission Corporation

[Docket No. CP89-2061-000]

September 11, 1989.

Take notice that on September 6, 1989, Texas Gas Transmission Corporation, (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-2061-000 an application pursuant to § 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 Access Energy Corporation (Access), under Texas Gas' 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 which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport, on an interruptible basis, up to 30,000 MMBtu per day for Access. Texas Gas states that facilities required to be constructed would be installed, owned, and operated as specified in Exhibits B and C of the transportation agreement.

Texas Gas further states that the maximum day, average day, and annual transportation volumes would be approximately 30,000 MMBtu 5,000 MMBtu and 5,000,000 MMBtu respectively.

Texas Gas advises that service under Section 284.223(a) commenced July 26, 1989, as reported in Docket No. ST89-4391.

[1] Natural states that Receipt Point Nos. 16, 24, 39, 48, 49, 65, 67, 72, 98, 124, 139, 142, 151, 153, 195, 225, and 234 as listed in Exhibit A to the transportation agreement are described therein as "proposed" points. Although these receipt points have been included in the agreement at Coastal's request, Natural states that no agreement has been reached concerning construction. Natural further states that any necessary authorizations will be obtained prior to constucting these points and utilizing them for service hereunder. Natural also states that Exhibit A incorrectly lists the existing Receipt Point No. 205 as a "proposed" point. According to Natural, this point was originally constructed as a facility utilized solely for transportation authorized by section 311, subpart B of the NGPA. Natural avers that use of this point for jurisdictional service was reported in Natural's Annual Report for Blanket Certificate Activities in Docket No. Cp82-402-000 filed May 1, 1989.

Comment date: October 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89-2008-000]

September 11, 1989.

Take notice that on August 28, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston Texas 77251, filed in Docket No. CP89-2008-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Transco Energy Marketing Company (Transco Energy), a natural gas marketer and affilaite of Transco, under Transco's blanket certificate issued in Docket No. CP88-328-000 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 available for public inspection.

Pursuant to a transportation service agreement dated April 30, 1989, Transco requests authority to transport up to 125,000 Dt. of natural gas per day, on an interruptible basis, on behalf of Transco Energy. Transco states that the agreement provides for it to receive the subject gas at various existing receipt points located offshore Louisiana and to redeliver it to various existing delivery points also located offshore Louisiana. Transco Energy has informed Transco that it expects to have only 75,000 Dt. of gas transported on an average day and, based thereon, estimates that 27,375,000 Dt. of gas would be transported annually. Transco advises that the transportation service commended on July 1, 1989, as reported in Docket No. ST89-4489-000, pursuant to § 284.223 of the Commission's Regulations.

Comment date: October 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. ANR Pipeline Company

[Docket No. CP89-2024-000]

September 11, 1989.

Take notice that on August 29, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-2024-000 a request pursuant to § 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 Xebec Gas Company (Xebec), under the 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 on file with the Commission and open to public inspection.

ANR states that pursuant to a transportation agreement dated May 8, 1989, it proposes to transport, on an interruptible basis, up to a maximum of 14,925 MMBtu of natural gas for Xebec.

ANR also states that it will transport 14,925 MMBtu on an average day and approximately 5,448,000 MMBtu on an annual basis.

ANR further states it commenced this service on July 1, 1989, as reported in Docket No. ST89-4293-000.

Comment date: October 26, 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 § 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. 89-22216 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF89-305-000]

Amoco Corp.; Small Power Production and Cogeneration Facilities—Qualifying Status; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 13, 1989.

A notice of the application for certification of a facility as a qualifying cogeneration facility filed by Amoco Corporation on August 3, 1989, was published in the **Federal Register** on August 29, 1989 (volume 54, page 35711). This notice incorrectly stated "recertification" rather than "certification" in the caption and the first sentence.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22134 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER89-641-000, et al.]

Southern California Edison Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

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

1. Southern California Edison Company

[Docket No. ER89-641-000]

September 12, 1989.

Take notice that on September 6, 1989, Southern California Edison Company (Edison) tendered for filing, the following Letter Agreement No. 2:

Letter Agreement No. 2 to the Edison-SMUD Power Sale Agreement
Between
Southern California Edison Company
(Edison)

and
Sacramento Municipal Utility District (SMUD)

The Letter Agreement amends the Edison-SMUD Power Sale Agreement to extend SMUD's transmission and capacity commitment notice dates; reduces the amount of SMUD's capacity purchases; eliminates SMUD's summer capacity purchase option; and allows SMUD to reduce its capacity purchase effective January 1, 1995.

Copies of this filing were served upon Public Utilities Commission of the State of California and all interested parties.

Comment date: September 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER89-643-000]

September 12, 1989.

Take notice that on September 5, 1989, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number Two to Agreement to Provide specified Transmission Service Between Florida Power & Light Company and Utility Board of the City of Key West, Florida (Rate Schedule FERC No. 95).

FPL states that under Amendment Number Two, FPL will transmit power and energy for the Utility Board of the City of Key West, Florida as is required in the implementation of its interchange agreement with the City of Tallahassee.

FPL requests that waiver of section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that a copy of the filing was served on the Utility Board of the City of Key West, Florida.

Comment date: September 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket No. ER89-642-000]

September 12, 1989.

Take notice that on September 5, 1989, Idaho Power Company (Idaho) tendered for filing a Notice of Cancellation of Supplement 10 to its Rate Schedule FPC No. 57.

Idaho requests an effective date of October 10, 1989.

Idaho states that copies of the filing have been served upon Oregon Trail Electric Consumers Cooperative.

Comment date: September 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Tapoco, Inc.

[Docket No. ER82-774-013]

September 12, 1989.

Take notice that on August 29, 1989, Tapoco, Inc. (Tapoco) tendered for filing its refund report pursuant to the Commission's order issued on June 29, 1987.

Comment date: September 26, 1989, in accordance with Standard Paragraph E end of this notice.

5. Nevada Power Company

[Docket No. ER89-558-000]

September 12, 1989.

Take notice that on September 7, 1989, Nevada Power Company (Nevada) tendered for amended filing an agreement entitled Interconnection Agreement Between Nevada Power Company and Valley Electric Association (Valley) hereinafter "the Agreement." The primary purpose of the Agreement is to establish the terms and conditions for the interchange of economy, emergency, and banked energy and for other power transactions that may be possible through the Parties' interconnected systems or through the systems of third Parties.

Nevada states that copies of the amended filing were served upon Valley.

Comment date: September 26, 1989, in accordance with Standard Paragraph at the end of this notice.

6. Ocean State Power, Ocean State Power II

[Docket No. ER89-564-000 and ER89-563-000]

September 12, 1989.

Take notice that on September 7, 1989, Ocean State Power II (Ocean State II) tendered for filing with the Federal Energy Regulatory Commission (the Commission) an amendment to the four initial rate schedules previously filed with the Commission on July 21, 1989 in the above-referenced docket. The amendment withdraws Ocean State II's request that the Commission rule on the rate of return on equity component in the rate schedules at this time and requests that the Commission approve Ocean State II's initial rate schedules by September 20, 1989. The rate of return on equity component will be filed at a later date with supporting documentation.

Copies of the amendment were served upon Boston Edison Company, New England Power Company, Montaup Electric Company, Newport Electric Corporation, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission.

Comment date: September 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of Indiana, Inc.

[Docket No. ER89-526-000]

September 13, 1989.

Take notice that Public Service Company of Indiana, Inc. (PSI), on September 8, 1989, tendered for filing additional information and cost support with respect to an Interim Scheduled Power Agreement between PSI and Wabash Valley Power Association, (Inc.) (Wabash).

Copies of the filing were served upon Wabash, Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER87-561-000]

September 13, 1989.

Take notice that on September 7, 1989, Arizona Public Service Company (APS or Company) tendered for filing the information specified in 18 CFR 35.23 of the Commission's Rules and Regulations as requested in the Commission's Order of October 22, 1987 in the above captioned Docket.

The filing establishes a ceiling adder applicable to the resale of purchased power for service provided to Citizens Utilities Company (CUC) pursuant to the terms of Supplement No. 1—Supplemental Peaking Energy Schedule to the Wholesale Power Agreement (Agreement) between APS and CUC. The proposed purchased power ceiling adder is based on the costs attributable to the transmission, control and dispatching of energy flowing through APS' transmission system.

APS has also filed a minor modification to the Agreement which changes the effective date applicable to initiation of service. The change, which was requested by CUC, was necessitated by delays in CUC's construction schedule caused by the pendency of this Docket.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. UNITIL Power Corporation

[Docket No. ER89-607-000]

September 13, 1989.

Take notice that on September 8, 1989, UNITIL Power Corporation (UNITIL) filed with the Commission a revision of its Electric Tariff No. 3, Sale of Electric

Generating Capacity and Energy, for the sale of capacity and associated energy from UNITIL's excess capacity entitlements in various generating plants, filed with the Commission on August 15, 1989.

UNITIL states that it is revising its original filing by submitting Revised Sheet No. 3 for the tariff and Revised Page 1 of Attachment A (Service Agreement). The purpose of the revision is to specify the rate, and the derivation thereof, in the tariff and to eliminate specific rate provisions from the Service Agreement.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of New Mexico

[Docket No. ER89-647-000]

September 13, 1989.

Take notice that on September 11, 1989, Public Service Company of New Mexico (PNM) tendered for filing an Amendment to the PNM-United States of America Department of Energy (DOE) Contract for Electric Service No. DE-AC04-85AL27436, dated January 1, 1985 which modifies the amount of transmission capacity reserved in PNM's system to receive DOE's increased Western Area Power Administration (Western) allocation and LAC's first time Western allocation.

PNM has requested waiver of the Commission's notice requirements so that the Letter Agreement may become effective as of October 1, 1989.

Copies of the filing have been served upon DOE and LAC and the New Mexico Public Service Commission.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. New York State Electric & Gas Corporation

[Docket No. ER89-646-000]

September 13, 1989.

Take notice that on New York State Electric & Gas Corporation (NYSEG), on September 8, 1989, tendered for filing Supplement No. 4 to its Agreement with Consolidated Edison Company of New York, Inc. (Con Edison), designated Rate Schedule FERC No. 87. The proposed changes would decrease revenues by $49,476 based on the twelve month period ending March 31, 1990.

This rate filing, Supplement No. 4, is made pursuant to Sections 1 (e) and (f) and 2 (e), (f) and (g) of Article III of the August 23, 1983 Facilities Agreement—Rate Schedule FERC No. 87. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1988. In addition, Con Edison's pro rata share of the total annual carrying charges associated with the firm supply system is calculated based on the rate of Con Edison's one hour demand at Mohansic plus estimated NYSEG and Con Edison one hour peak input at Wood Street. The levelized annual carrying charges included in the calculation reflect a 13.80 percent return on equity which was approved by the New York State Public Service Commission's Opinion 88-2 in Case 29541, effective January 1, 1988.

NYSEG requests an effective date of April 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Consolidated Edison Company of New York and on the Public Service Commission of the State of New York.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER89-265-000]

September 13, 1989.

Take notice that on August 2, 1989, Arizona Public Service Company (Arizona) tendered for filing additional revised rate sheets that were not included in Arizona's July 26, 1989 filing.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER89-645-000]

September 13, 1989.

Take notice that on September 8, 1989, Public Service Company of New Mexico (PNM) tendered for filing Amendment Number 1 to Service Schedule H, Area Control Services and Metering (SSH) to the County of Los Alamos, New Mexico (LAC)-PNM Interconnection Agreement dated November 26, 1984. In Amendment Number 1 to SSH, the expiration date will be changed from December 31, 1987 to December 31, 1989 and will continue thereafter on a month-to-month basis until LAC notifies PNM that it has actually implemented an alternative area control service.

PNM has requested waiver of the Commission's notice requirements so that Amendment No. 1 to SSH may become effective as of June 1, 1989.

Comment date: September 27, 1989, in accordance with Standard Paragraph E at the end of this notice.

14. Louisiana Power & Light Company

[Docket No. ER88-540-004]

September 13, 1989.

Take notice that on September 5, 1989, Louisiana Power & Light Company (LP&L) tendered for filing its refund report pursuant to the Commission's order issued July 28, 1989.

Comment date: September 27, 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. 89-22135 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM89-14-000]

Natural Gas Policy Act of 1978; Application for Approval of Alternative Filing Requirements by the Department of Natural Resources of the State of Michigan; Amendment to Application for Approval of Alternative Filing Requirements

September 13, 1989.

On August 28, 1989, the Department of Natural Resources of the State of Michigan (Michigan) filed an amendment to its May 15, 1989, application for approval of alternative filing requirements pursuant to § 274.207 of the Commission's regulations. Notice of the May 15, 1989 application was issued on July 19, 1989, and published in the **Federal Register** on July 25, 1989. 54 FR 30,932.

Michigan is requesting alternative filing requirements for §§ 274.205(d)(3)(i) and 274.205(d)(4)(i) of the Commission's

regulations as they are applied to persons seeking determinations under section 107(c)(4) of the Natural Gas Policy Act of 1978 (NGPA) for wells completed on or after November 1, 1979, producing natural gas from the Antrim Shale formation (a Devonian age formation) in the state of Michigan.

The amendment sets out additional filing requirements in cases where a gamma ray log for the well for which a determination is sought is not available. As amended, the requirements include: a gamma ray log with superimposed indications of the gamma ray index of 0.7 over the Devonian stratigraphic age interval penetrated by the well bore from the closest available well; and, a driller's log from the well for which the determination is sought indicating the general characteristics of the strata penetrated. Further, the amendment clarifies that a mud log, from the well for which a determination is sought, is a mandatory requirement, not optional, as indicated in the earlier application. Michigan states that these extra requirements further insure that the qualifications for a section 107(c)(4) determination are satisfied. The amendment also makes various editorial corrections to the May 15, 1989 application.

Any person desiring to be heard or to protest said filing should file a petition 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 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before [insert date 30 days after issuance]. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22136 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

September 14, 1989.

Take notice that CNG Transmission Corporation ("CNG"), on September 7, 1989, pursuant to the Commission's Take-or-Pay orders in Docket Nos. RP88-217 and RP89-165, section 154.38(d)(6) of the Federal Energy Regulatory Commission's regulations that provides for the Annual Charge Adjustment, and sections 12.9 and 14 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets:

Volume No. 1:

Fourth Revised Sheet Nos. 45 and 48, Substitute Sixth Revised Sheet No. 32, Eleventh Revised Sheet No. 31

Volume No. 2:

Second Revised Sheet Nos. 250 and 290

Volume No. 2A:

Second Revised Sheet Nos. 18, 28, 35, 48 and 87

The proposed effective dates for the tariff sheets filed in compliance with the Take-or-Pay orders are August 1, 1989 and September 1, 1989. CNG states that its filing includes rate adjustments to reflect additional take-or-pay amounts from Transcontinental Gas Pipe Line Corporation and reduced amounts from Texas Gas Transmission Corporation.

CNG states that Eleventh Revised Sheet No. 31, Substitute Sixth Revised Sheet No. 32, and all of the proposed changes to Volume Nos. 2 and 2A of CNG's tariff are designed to reflect the new ACA unit charge for the year beginning October 1, 1989. This year's ACA unit charge is 0.16 cents per Dt.

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

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedures 18 CFR 385.214 and 385.211). All motions or protests should be filed on or before September 21, 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. 89-22137 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-209-001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

September 14, 1989.

Take notice that K N Energy, Inc. (K N) on September 8, 1989 tendered for filing two revised tariff sheets. The proposed effective date for these tariff sheets is August 1, 1989.

K N states that the filing is made in compliance with the Commission's August 23, 1989 letter in the referenced proceeding.

Copies of the filing were served upon K N's jurisdictional customers, interested public bodies, and all parties on the official service list.

Any person desiring to protest this filing should, on or before September 21, 1989, file a protest with the Commission in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22138 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-1-59-000]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

September 13, 1989.

Take notice that on September 7, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern) filed proposed changes in its FERC Gas Tariff. The purpose of these changes is to establish the ACA surcharge in its rates for fiscal year 1990.

A copy of this filing has been served upon all of Northern's 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 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 20, 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. 89-22139 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-160-000 and RP89-114-000]

Trunkline Gas Co.; Informal Settlement Conference

September 13, 1989.

Take notice that a settlement conference will be convened in this proceeding on October 3, 1989, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First St., NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact J. Carmen Gastilo (202) 357-8410 or Donald A. Heydt (202) 357-5248.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22140 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-2025-000]

ANR Pipeline Co.; Erratum (September 14, 1989) Request Under Blanket Authorization

August 31, 1989.

The notice issued herein replaces paragraphs 1 and 2 of the notice issued on August 31, 1989, (54 FR 37970, September 14, 1989).

Take notice that on August 29, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-2025-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of SEMCO Energy Services, Inc. (SEMCO), 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 on an interruptible basis up to 50,000 dt equivalent on a peak day for SEMCO, 50,000 dt equivalent on an average day and 18,250,000 dt equivalent on an annual basis for SEMCO. It is stated that ANR would receive the gas at designated points on ANR's system in Oklahoma, Kansas, Texas, Louisiana, offshore Louisiana and offshore Texas, and would deliver equivalent volumes at designated points on ANR's system in Michigan. It is asserted that the transportation would be effected using existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced July 1, 1989, under the self-implementing authorization of § 284.223 of the Commission's Regulation, as reported in Docket No. ST89-4295.

The 45 day notice period will run as established by the August 31, 1989 notice.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22180 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

Docket Nos. TA89-1-22-000 and RP89-204-000]

CNG Transmission Corp.; Informal Technical Conference

September 14, 1989.

Take notice that an informal technical conference will be convened in the above-captioned proceeding on October 12, 1989, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426. The Conference is being held pursuant to the Commission's order issued herein on August 31, 1989.

Attendance will be limited to parties and the staff.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22179 Filed 9-19-89; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ES89-35-000]

El Paso Electric Co.; Notice of Application

September 14, 1989

Take notice that on September 7, 1989, El Paso Electric Company ("Company") filed 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 $200 million of secured long-term debt through the period expiring March 31, 1991.

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 September 27, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. 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. 89-22175 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-45-000]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

September 14, 1989.

Take notice that on September 11, 1989, Inter-City Minnesota Pipelines, Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to Original Volume 2 of its FERC Gas Tariff to be effective November 1, 1989.

Original Volume No. 1

Thirty-Fifth Revised Sheet No. 4.

Inter-City states that this revised tariff sheet is filed as Inter-City's Annual PGA pursuant to Order Nos. 483 and 483-A.

Inter-City states that copies of the filing have been mailed to all of its customers and the affected state regulatory commission.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426, in accordance Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 3, 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. 89-22172 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-001-002]

Mojave Pipeline Co.; Amendment to Application

September 14, 1989.

Take notice that on September 1, 1989, Mojave Pipeline Company (Mojave), 1400 Smith, Houston, Texas 77002, filed in Docket No. CP89-001-002, an amendment to its application filed on October 3, 1988, pursuant to sections 7(b) and 7(c) of the Natural Gas Act and subparts E and F of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder for certain certificates of public convenience and necessity. Mojave seeks to amend its applications for a certificate under the optional procedures contained in subpart E of part 157, as more fully set forth in the amendment to its application which is on file with Commission and open to public inspection.

Settlement

This amendment is being filed as an integral part of a settlement agreement (settlement) among Mojave, Kern River Gas Transmission Company (Kern River) and Southern California Gas Company (SoCal). The settlement would provide for Mojave and Kern River each to independently construct, own and operate that part of their previously proposed pipelines from Topock, Arizona and Opal, Wyoming, respectively, to a point near Daggett, California. From that point to Kern County, the Mojave pipeline and the Kern River pipeline would use a single facility (the Common Facilities). Mojave would be responsible for the construction and operation of the common facilities. Application for the Kern River facility has been concurrently filed in Docket No. CP89-2047-000 by Kern River.

By terms of the settlement, Mojave and Kern River would be free to compete with each other and with SoCal for the California natural gas market. SoCal would have the right to interconnect its California pipeline facilities with either or both of these pipelines. Both Mojave and Kern River would be open access pipelines and would be connected to different supply sources.

Both Mojave and Kern River would have the right to use a specific amount of the Common Facilities as it sees fit subject to physical design and operating constraints and the right to expand both their individual facilities and the common facilities.

Under the settlement, Mojave and Kern River would each include its share of the costs of the Common Facilities in its rates, and each would charge separate rates for their respective facilities from Topock, Arizona and Opal, Wyoming to Kern County, including transportation over the Common Facilities.

On May 8, 1989, the Commission issued an order granting Mojave's optional certificate in this docket with certain modifications and blanket certificate in Docket No. CP89-002, 47 FERC ¶ 61,200(1989). On June 7, 1989, Mojave filed a request for rehearing asking for certain modifications. An order on rehearing has not yet been issued. Mojave states that this amendment is intended to apply to Mojave's original application, as modified by the certificate order. In addition, Mojave states that its application adopts all of the modifications proposed in the request for rehearing, except as specifically indicated herein.

Project Description

As amended, the Mojave Pipeline will consist of (i) a pipeline constructed, owned and operated by Mojave that will run from near Topock, Arizona to a point near Daggett, California (the "Mojave Facility"), and (ii) Mojave's 36.364% undivided interest as a tenant in common of a pipeline also owned by Kern River Gas Transmission Company ("Kern River") that will run from Daggett, California into Kern County, near Bakersfield, California (the Common Facilities). The Mojave Facility and The Common Facilities are described more fully below.

1. The Mojave Facility

The Mojave Facility is similar to the alternative II proposal approved by the Commission in Mojave's original optional application. The Mojave Facility will have a design capacity of 400 MMcf/d, and will consist of approximately 159 miles of 24 and 30-inch pipeline extending from near Topock, Arizona to the point of interconnection with the Kern River Pipeline ("Interconnection Point") near Daggett, California, together with one compressor station and appurtenant facilities. The Mojave Facility will consist of (i) approximately 17 miles of 24-inch diameter pipeline (Mojave Transfer Line) to be constructed from a tap on an existing 30-inch pipeline owned by Transwestern Pipeline Company (Transwestern) in Mohave County, Arizona, to the proposed compressor station located near Topock, Arizona, and (ii) interconnection facilities from a tap on an existing El Paso Natural Gas Company (El Paso) pipeline immediately south of the proposed Topock compressor station to connect into such a compressor station. The second segment will consist of approximately 142 miles of 30-inch diameter pipeline (Mojave Mainline) commencing at the proposed Topock compressor station, crossing the Colorado River into California, and extending to the Interconnection Point.

Mojave states that a single compressor station will be constructed at the point where the Mojave Transfer Line and the Mojave Mainline intersect. This compressor station will have site rated capacity of 14,080 horsepower. Electric power at the station will be supplied by the local electric utility, to be supplemented with an on-site natural gas-driven engine generator.

Mojave states that two meter stations will be built, one located at the Topock compressor station to measure deliveries of gas to the Mojave Pipeline from El Paso and one located at the tie-in point with Transwestern to measure deliveries of gas to Mojave from Transwestern. In addition, a meter station will be located at the point of interconnection between the Mojave Facility and the Common Facilities to measure deliveries of gas from the Mojave Facility to the Common Facilities.

2. Common Facilities

The Common Facilities will have a design capacity of 1.1 Bcf/d, and will consist of approximately 225.5 miles of 30, 36 and 42-inch pipeline, together with appurtenant facilities (including metering facilities located near Daggett for both Mojave and Kern River), extending from the Interconnection Point to near Bakersfield, California. The Common Facilities will consist of four segments. The first segment (Common Mainline) will commence at the Interconnection Point. The Common Mainline will be capable of receiving 400 MMcf/d from the Mojave Pipeline and 700 MMcf/d from the Kern River Pipeline. The Common Mainline will consist of approximately 121.5 miles 42-inch pipeline commencing at the Interconnection Point and ending at a

point southeast of Bakersfield, California (Bifurcation Point). The Common Mainline will have a capacity of 1.1 Bcf/d. The second segment (East Side Lateral) will consist of approximately 48.5 miles of 30-inch pipeline commencing at and proceeding northward from the Bifurcation Point to a terminus approximately 12 miles north of the Kern River in Kern County, California. The East Side Lateral will be capable of delivering at its terminus 400 MMcf/d. The third segment (West Side Mainline) will consist of approximately of 12.5 miles of 36-inch pipeline commencing at the Bifurcation Point and proceeding west to the West Side Lateral. The West Side Mainline will have a capacity of 700 MMcf/d and will be capable of delivering 300 MMcf/d to a delivery point, including appropriate valves, taps and measuring equipment, located approximately 12.5 miles west of the Bifurcation Point and 400 MMcf/d to the West Side Lateral.

Mojave states that the last segment (West Side Lateral) will consist approximately of 43 miles of 30-inch pipeline commencing at the end of the West Side Mainline and proceeding northwest to a terminus at the gas processing plant in Kern County known as the Z–17 plant (Chevron). The West Side Lateral will be capable of delivering 400 MMcf/d at its terminus.

Mojave states that a metering station will be located at the delivery point on the West Side mainline. Mojave anticipates that approximately 22 sales meter stations—in addition to the inlet metering facilities—also will be constructed pursuant to the blanket certificate authorization previously granted at various locations along the route of the pipeline to measure redeliveries of gas from Mojave to the shippers. The Common Facilities will include such other delivery points, taps, valves, measurement and appurtenant facilities as are described in more detail in the application or which will be constructed pursuant to the blanket certificate authorization previously granted.

Cost and Financing

Mojave estimates the total direct cost of the Mojave Facility in 1989 dollars to be $109,332,000 and of the Common Facilities to be $204,010,200 of which Mojave's share is $74,185,500. After payment of indirect costs, Mojave estimates the total capital cost of the Mojave Pipeline (which includes the entire cost of the Mojave Facility and Mojave's 36.364 percent share of the Common Facilities) in 1989 dollars at approximately $214,405,300. Mojave intends to fund the construction of the proposed facilities using a financing plan which will permit an appropriate 60/40 debt-to-equity ratio. The equity portion will be contributed in equal shares by the two Mojave partners. The debt portion of capital will be secured by service agreements negotiated with the contract shippers (project financed).

Rates

Mojave does not propose to change through this amendment its basic rate structure. Mojave and its shippers will be able to negotiate a two-part rate for firm service that consists of both a reservation fee and a transportation charge to be paid per unit of gas transported, provided that such rates are not greater than the maximum rates of less than the minimum rates set forth in Mojave's Tariff. However, Mojave states that it has amended certain of its rate components and the estimated cost of its facilities has changed. Accordingly, Mojave revises its proposed rates per MMBtu as follows:

Volumetric Rate		Maximum reservation fee
Maximum	Minimum	
$ 0.350	$ 0.010	$ 0.197

Consistent with its request for rehearing, Mojave states that is has excluded both return on and return of equity from the calculation of its maximum reservation fee. However, if the Commission reduces Mojave's return on equity below 15 percent, Mojave requests that it be given the opportunity to recover its return of equity in the reservation fee.

Proposed Service

Mojave proposes to provide transportation of an average daily quantity of 400 MMcf/d on a contract basis from the interconnections of the Mojave systems with existing Transwesterns and El Paso lines near Topock, Arizona, through the Common Facilities to Kern County California. Mojave will provide its transportation services on an open access basis under its blanket certificate issued in Docket No. CP89–002. Gas to be used for compressor station fuel and other utility purposes, as well as line pack and line losses in the operation of the pipeline will be provided in kind by the shippers; Mojave will not buy or sell any gas it transports.

Interruptible Service

As approved by the Commission in Mojave's optional certificate order (47 FERC ¶ 61,200, (1989)), Mojave has set its maximum rate for interruptible service using the maximum total 100 percent load factor rate for firm service, to be charged on a volumetric basis.

Environmental Analysis

Mojave states that the portion of its line east of the Interconnection Point would be identical, for environmental purposes, to the route already studied with the following exception. The Topock Compressor Station would have an installed site-related capacity of 14,080 horsepower, rather than the original 22,500 horsepower originally planned.

Mojave states that the portion of its line west of the Interconnection Point would have decreased adverse impacts because Mojave would change its route of the two laterals to accommodate two delivery points. Mojave states that no significant new adverse impacts will result as a result of its revisions.

Protests and Interventions

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 5, 1989, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) 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. (All persons who have heretofore filed need not file again.)

Lois D. Cashell,

Secretary.

[FR Doc. 89–22177 Filed 9–19–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA90–1–41–000]

Paiute Pipeline Co.; Annual Notice of Change in Rates Pursuant to Purchased Gas Cost Adjustment Provision

September 14, 1989.

Take notice that on September 1, 1989, Paiute Pipeline Company (Paiute) tendered for filing its annual purchased gas cost adjustment (PGA) filing pursuant to the PGA provisions contained in section 9 of the General

Terms and Conditions of Paiute's FERC Gas Tariff, Original Volume No. 1 and on September 8, 1989, Paiute tendered for filing a proposed substitute tariff sheet for the purpose of correcting a typographical error on Eleventh Revised Sheet No. 10 contained in Paiute's annual PGA filing. Paiute has requested that its proposed tariff sheet, Substitute Eleventh Revised Sheet No. 10, become effective November 1, 1989.

Paiute states that its annual PGA filing reflects (1) the reduction of Paiute's purchased gas cost charges to zero; (2) an increase of 51.96 cents per dekatherm in the commodity rate; and (3) an annual surcharge rate of 5.94 cents per dekatherm. Paiute further states that its proposed rates are based on estimated levels of purchases and sales for the period that the proposed rates are to be in effect, which is the three-month period ending January 31, 1990. The proposed rates reflect the elimination of sales demand charges from Paiute's traditional upstream pipeline supplier, Northwest Pipeline Corporation (Northwest). Paiute has converted, effective October 1, 1989, all of its remaining firm sales entitlements to firm transportation. Therefore, the Northwest sales demand component has been eliminated from Paiute's demand rates.

Paiute states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Southwest Gas Corporation, Sierra Pacific Power Company and CP National Corporation.

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 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 3, 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. 89-22173 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-162-000]

Ringwood Gathering Co.; Informal Settlement Conference

September 14, 1989.

Take notice that a settlement conference will be convened in this proceeding on September 26, 1989, immediately following the pre-hearing conference scheduled for 10:00 a.m., for the purpose of discussing the potential settlement of the issues in the above-referenced docket. The conference will take place at 810 First Street, NE., Washington, DC.

Any party as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b) is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Anne J. King (202) 357-5646.

Lois D. Cashell,

Secretary.

[FR Doc. 89-22178 Filed 9-19-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3646-8]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATE: Comments must be submitted on or before November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202 382-2740).

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Census of State Program Status under SARA, Title III (EPA ICR #1539.01). This is a new collection.

Abstract: State Emergency Response Commissions will be asked to complete a short questionnaire, which will provide information about the status of State and local programs being implemented under the Superfund Amendments Reauthorization Act (SARA), Title III. This information will be used by EPA to identify problem areas within these community-right-to-know programs and to target future efforts to help State and local governments to improve their programs.

Burden Statement: The estimated public reporting burden for this collection of information is 2 hours per respondent, per year. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: State Emergency Response Commissions.

Estimated No. of Respondents: 54.

Estimated Total Annual Burden on Respondents: 108 hours.

Frequency of Collection: 2 responses per year.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and or

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20530.

Dated: September 1, 1989.

David Schwarz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 89-21919 Filed 9-19-89; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30295A; FRL-3647-4]

Binab USA, Inc.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Binab USA, Inc., to register the pesticide products Binab™ T Pellets Biorational Fungicide and Binab™ T Wettable Powder Biorational Fungicide, containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide,

Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Susan T. Lewis, Acting Product Manager (PM) 21, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of March 29, 1989 (54 FR 12952), which announced that Binab USA, Inc., c/o E.R. Butts International, Inc., 555 Clinton Ave., PO Box 3337, Bridgeport, CT 06605–0337, had submitted applications to conditionally register the pesticide products Binab™ T Pellets Biorational Fungicide and Binab™ T Wettable Powder Biorational Fungicide (EPA File Symbols 61463–R and 61463–E), both products containing the same active ingredients *trichoderma harzianum* (ATCC 20476) and *trichoderma polysporum* (ATCC 20475) at 14 and 16.6 percent respectively; active ingredients not included in any previously registered products.

The applications were approved for general use on July 24, 1989, as Binab™ T Pellets Biorational Fungicide (EPA Reg. No. 61463–1), for use on wooden utility poles, playground structures, and fence posts to control internal decay; and Binab™ T Wettable Powder Biorational Fungicide (EPA Reg. No. 61463–2), for use to control decay on pruning wounds of trees.

The Agency has considered all required data on the risks associated with the proposed use of *trichoderma harzianum* (ATCC 20476) and *trichoderma polysporum* (ATCC 20475) and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *trichoderma harzianum* (ATCC 20476) and *trichoderma polysporum* (ATCC 20475) when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on *trichoderma harzianum* (ATCC 20476) and *trichoderma polysporum* (ATCC 20475).

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (H7505C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St., SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for 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 (703–557–3262). 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 Street, SW., Washington, DC 20460. Such requests should: (1) Identify the product's name and registration numbers and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: August 30, 1989.

Anne E. Lindsay,

Director, Registration Division.

[FR Doc. 89–21964 Filed 9–19–89; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–62081; FRL–3648–8]

Confidentiality Claims Under the Asbestos Information Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is to inform all submitters of information under the Asbestos Information Act that EPA will not accept claims of business confidentiality.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: On October 31, 1988, the President signed into law the Asbestos Information Act of 1988, Pub. L. 100–577 (AIA), which requires manufacturers and processors of certain asbestos-containing materials to submit information to EPA to be published. Section 2 of the Act specifies the items of information to be provided for publication. In the Federal Register of April 18, 1989 (54 FR 15622), EPA issued a notice listing EPA's information collection requirements under the AIA. On August 7, 1989 (54 FR 32430), EPA issued a notice indicating that the Office of Management and Budget had approved the information collection and that information was due to EPA on October 6, 1989. Neither Federal Register notice discussed confidentiality claims under the AIA.

EPA is issuing this notice to inform submitters under the AIA that the Act requires EPA to publish all information submitted in accordance with section 2 of the Act. Therefore, EPA will publish all such information as required by its regulations regardless of any claims of business confidentiality asserted by the submitter. No further notice to submitters will be provided.

Dated: September 14, 1989.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 89–22188 Filed 9–19–89; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3648–2]

Public Notice of Administrative Order on Consent Under Section 309(g) of the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA Region IV is hereby giving notice of its proposal to issue an Administrative Order on Consent to Orlando Wilson Enterprises, Inc. (Respondent), and its intention to assess administrative penalties under section 309(g) of the Clean Water Act, 33 U.S.C. 1319(g). EPA alleges the unpermitted filling of 10.2 acres of wetland owned by Respondent located at or near Noonday Creek in the northeast corner of the intersection of Interstate I–575 and State Route 92 in Woodstock, Cherokee County, Georgia, in violation of Section 301 of the Clean Water Act, 33 U.S.C. 1311. Under the negotiated terms of the Order on Consent, Respondent will pay either an administrative penalty of $100,000.00 of pay an administrative penalty of $20,000.00 and perform EPA-approved public outreach activities in mitigation of $80,000.00 of the penalty.

Interested parties may contact the EPA representative for this action, Tom Welborn, Wetlands, Regulatory Unit, 345 Courtland Street NE., Atlanta, GA 30365 or by telephone at (404) 347–2126 to obtain information or to be put on a mailing list to receive future public notices in the Region IV area. Any person wishing to comment in writing on the proposed penalty order must submit such comments to the Regional Hearing Clerk, 345 Courtland Street NE., Atlanta, GA 30365 within thirty (30) days of the date of this public notice. If a hearing is requested, those submitting written comments will be advised of the date and time of the hearing and may appear to present evidence on the appropriateness of the proposed penalty assessment. The final administrative penalty order will be issued after the close of the thirty (30) day comment period unless a public hearing is requested. The Administrative Record, including information submitted by Respondent, is on file at the EPA Wetlands Regulatory Unit at the address identified above. The file will be open for public inspection between 9:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tom Welborn at 404–347–2126 (FTS 257–2126).

Bruce R. Barrett,

Director, Water Management Division.

[FR Doc. 89–22190 Filed 9–19–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1795]

Petitions for Reconsideration and Application for Review in Rulemaking Proceedings

September 14, 1989.

Petitions for reconsideration and application for review have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor International Transcription Service (202–857–3800). Oppositions to these petitions must be filed within 15 days of the date of public notice of the petitions in the **Federal Register.** See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b) Table of Allotments, TV Broadcast Stations. (Suring and Appleton, Wisconsin). Petitions Received: 1.

Subject: MTS and WATS Market Structure; Amendment of part 36 of the Commission's Rules and Establishment of A Joint Board (CC Docket Nos. 78–72 and 80–286. Petitions Received: 4.

Subject: Amendment of the Commission's Rules for Rural Cellular Service. (CC Docket No. 85–388). Petitions Received: 2.

Subject: Amendment of § 73.606(b) Table of Allotments, TV Broadcast Stations. (Anniston, Alabama) (MM Docket No. 86–101, RM–5455). Petitions Received: 1.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Spring Grove and Preston, Minnesota and Mason City, Iowa) (MM Docket No. 88–141, RM Nos. 6030 and 6407). Petitions Received: 1.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (New London, New Hampshire) (MM Docket No. 88–159, RM–6204). Petitions Received: 1.

Subject: Amendment of Part 22 of the Commission's Rules to Revise Certain Filing Procedures for Mobile Service Division Applications and to Eliminate Form 430. (CC Docket No. 88–161). Petitions Received: 2.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–22109 Filed 9–19–89; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Proceeding; Southern Twin Cities Area Radio, Inc.

1. The Commission has before it the following application for a new FM station:

Applicant	City/ State	File No.	MM Docket No.
A. Southern Twin Cities Area Radio, Inc.	Lakeville, MN.	BPH–860317ML	88–93

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applicant has been designated for a hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 Fed. Reg. 19347, May 29, 1986. The letter shown before the applicant's name, above, is used to signify whether the issue in question applies to the applicant.

Issue heading	Applicants
1. Air Hazard	A
2. Comparative	A
3. Ultimate	A

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in the Appendix to this Notice. A copy of the complete HDO in this proceeding is available in the FCC Dockets branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington DC, 20037 Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 89–22110 Filed 9–19–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011249.

Title: Europe Service Administration Agreement.

Parties:

Westwood Shipping Lines, Inc. ("Westwood")

Star Shipping A/S ("Star Shipping")

Synopsis: The proposed agreement would permit Star Shipping to assume certain contractual obligations previously entered into by Westwood for the carriage of forest products in the trade from United States Pacific Northwest ports to North Europe and United Kingdom ports. This arrangement is a result of Westwood's cessation of service in the trade. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: September 15, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-22251 Filed 9-19-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-19]

Automatic Discount Provisions in Service Contracts; Filing of Petition for Declaratory Order or, Alternatively, Rulemaking

September 14, 1989.

Notice is given that a petition for declaratory order or, alternatively, rulemaking has been filed by Associated Container Transportation (Australia) Ltd. and Hamburg-Sudamericanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck ("Petitioners").

Petitioners request that the Commission issue a declaratory order that service contracts may not lawfully contain provisions that provide for automatic discounts from rates contained in tariffs and service contracts filed by other carriers. Alternatively, Petitioners seek a rule prohibiting such automatic discount provisions.

Interested persons may submit replies to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 on or before October 31, 1989, in an original and 15 copies. Replies shall also be served on counsel for Petitioners: Wade S. Hooker, Jr., Esq., Alan C. Hall, Esq., Burlingham, Underwood & Lord, One Battery Park Plaza, New York, New York 10004-1484. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition (See 46 CFR 502.68(d)).

Copies of the petition are available for examination at the Washington, DC, office of the Commission, 1100 L Street, NW., Room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 89-22131 Filed 9-19-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Auburn National Bancorporation, et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de Novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can "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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 1989.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Auburn National Bancorporation, Auburn, Alabama; to engage *de novo* through its subsidiary, ANB Systems, Inc., Auburn, Alabama, in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the states of Alabama, Florida, and Georgia.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Greatbanc, Inc., Itasca, Illinois; to engage *de novo* through its subsidiary, GreatBanc Trust Company, Aurora, Illinois, and thereby engage in trust, investment management and custodial services to individuals, corporations and other entities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Paragould Bankshares, Inc., Paragould, Arkansas; to engage *de novo* through its subsidiary, First Services of Northeast Arkansas, Inc., Paragould, Arkansas, in offering strategic planning and management consulting services to financial institutions pursuant to § 225.25 (b)(7) and (b)(11) of the Board's Regulation Y. These activities will be conducted in the State of Arkansas.

Board of Governors of the Federal Reserve System, September 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-22148 Filed 9-19-89; 8:45 am]

BILLING CODE 6210-01-M

The Cedar Vale Bank Holding Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The 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 on the question whether consummation of the proposal can "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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 4, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Cedar Vale Bank Holding Company*, Wellington, Kansas; to become a bank holding company by acquiring 90.5 percent of the voting shares of The Bank of Commerce & Trust Company, Wellington, Kansas, which engages in the sale of credit-related life and accident and health insurance.

In connection with this application, applicant also proposes to acquire Tri-County Financial Corporation, Inc., Wellington, Kansas, and thereby engage in insurance agency activities pursuant to § 225.25(b)(8)(vi) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-22149 Filed 9-19-89; 8:45 am]

BILLING CODE 6210-01-M

Country Bank Shares Corp.; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 89-16847) published at page 30267 of the issue for Wednesday, July 19, 1989.

Under the **Federal Reserve Bank of Chicago**, the entry for Country Bank Shares, Corporation is amended to read as follows:

1. Country Bank Shares Corporation, Janesville, Wisconsin; to acquire 88 percent of the voting shares of State Bank of Mt. Horeb, Mt. Horeb, Wisconsin; 90 percent of State Bank of Argyle, Argyle, Wisconsin; and 90 percent of Citizens State Bank of Clinton, Clinton, Wisconsin.

As a result of this proposal, Country Bank Shares Corporation will undergo a change of ownership by: Mr. James Anderson, Aberdeen, South Dakota (9.0% resulting ownership); Mr. William E. Brandt, Madison, Wisconsin, (9.8%); Mr. Neal Brunner, Madison, Wisconsin (4.9%); Mr. Patrick Coyle, Madison, Wisconsin (5.0%); Mr. Delmer DeLong, Clinton, Wisconsin (5.0%); Mr. Larry Endres, Waunakee, Wisconsin (9.8%); Mr. Richard Huffman, Aberdeen, South Dakota (9.0%); Mr. Richard Mayne, Madison, Wisconsin (9.0%); Mr. William Robichaux, Monroe, Wisconsin (9.8%); Mr. William Ryan, Janesville, Wisconsin (9.0%); Mr. Jeremy Shea, Madison, Wisconsin (5.0%); Mr. Peter Tong, Milton, Wisconsin (5.0%); Mr. Robert Tramburg, Madison, Wisconsin (5.0%); and Western Bankshares, Inc., Milwaukee, Wisconsin (4.8%).

Comments on this application must be received by October 4, 1989.

Board of Governors of the Federal Reserve System, September 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-22150 Filed 9-19-89; 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 4, 1989.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *A.D. Duncklee*, Drayton, North Dakota; John W. Brown, Drayton, North Dakota; and Andell Fortier, Drayton, North Dakota, to acquire an additional 2.15 percent of the voting shares of Drayton Bancor, Inc., Drayton, North Dakota, for an individual total of 18.73 percent, and thereby indirectly acquire Drayton State Bank, Drayton, North Dakota.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Charles I. Castro, Jr.*, San Antonio, Texas; and Perry M. Kallison, Jr., San Antonio, Texas; to each acquire 19.84 percent of the voting share of Hometown Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Clear Lake National Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, September 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-22151 Filed 9-19-89; 8:45 am]

BILLING CODE 8210-01-M

New East Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications

must be received not later than October 11, 1989.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *New East Bancorp,* Raleigh, North Carolina; to acquire 100 percent of the voting shares of New East Bank of Fayetteville, Fayetteville, North Carolina, a de novo bank.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Century Financial Corporation,* Coldwater, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Century Bank and Trust, Coldwater, Michigan.

2. *Greater Chicago Financial Corp.,* Chicago, Illinois; to acquire 100 percent of the voting shares of Ashland Bancshares, Inc., Chicago, Illinois, and thereby indirectly acquire Ashland State Bank, Chicago, Illinois.

3. *Prairie Bancorp, Inc.,* Manlius, Illinois; to become a bank holding company by acquiring 97.3 percent of the voting shares of The First National Bank of Manlius, Manlius, Illinois.

4. *River Forest Bancorp, Inc.,* Chicago, Illinois; to acquire 100 percent of the voting shares of Calumet City Bancorp, Inc., Calumet City, Illinois, and thereby indirectly acquire First State Bank of Calumet City, Calumet City, Illinois.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *MONBAN, Inc.,* Billings, Montana; to become a bank holding company by acquiring 94.78 percent of the voting shares of Fairview Bank, Fairview, Montana.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Lockney Bancshares, Inc.,* Lockney, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Lockney Bancshares, Inc., Lockney, Texas, and thereby indirectly acquire First National Bank in Lockney, Lockney, Texas.

Board of Governors of the Federal Reserve System, September 14, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-22152 Filed 9-19-89; 8:45am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89M-0369]

Medronic® Inc.; Premarket Approval of the Synergyst™ II Models 7070 and 7071 Pulse Generators and the Model 9710 Programmer With the Model 9739A Memorymod®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic®, Inc., Minneapolis, MN, for premarket approval, under the Medical Device Amendments of 1976, of the Synergyst™ II Models 7070 and 7071 Pulse Generators and the Model 9710 Programmer with the Model 9739A MemoryMod®. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 24, 1989, of the approval of the application.

DATES: Petitions for administrative review by October 20, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark D. Kramer, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1018.

SUPPLEMENTARY INFORMATION: On January 5, 1989, Medtronic®, Inc., Minneapolis, MN 55432, submitted to CDRH an application for premarket approval of the Synergyst™ II Models 7070 and 7071 Pulse Generators and the Model 9710 Programmer with the Model 9739A MemoryMod®.

The Synergyst™ II Models 7070 and 7071 Pulse Generators are indicated for use to improve cardiac output and to prevent symptoms or protect against arrhythmias related to the sequence of cardiac impulse formation or conduction. Rate response may be restored in some patients with exercise intolerance or limitations by using activity-response modes to improve cardiac output. Indications for its primary mode of operation are sinus bradyarrhythmia with chronotropic incompetence; intermittent or complete atrioventricular block with normal sinus activity; some sick sinus syndrome conditions, such as intermittent sinus bradycardia, sinus arrest, or S-A exit block; certain drug-resistant and reentrant tachycardias; and certain atrial and ventricular ectopic arrhythmias.

The Model 9710 Programmer is intended to be utilized to noninvasively interrogate and program the Synergyst™ II pacemaker. In addition, it may be utilized to program and/or interrogate other currently available programmic Medtronic pulse generators.

On June 30, 1989, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 24, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Mark D. Kramer (HFZ-450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through

administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 20, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 13, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89–22157 Filed 9–19–89; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Division of Research Grants; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following study sections for October through November 1989, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business 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 thereafter in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 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.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	October–November 1989 meetings	Time	Location
Allergy & Immunology, Mr. Howard M. Berman, Rm. 320, Tel. 301–496–7380.	Oct. 16–18	8:30	Ramada Inn, Bethesda, MD.
Bacteriology & Mycology-1, Dr. Timothy J. Henry, Rm. 306, Tel. 301–496–7340.	Oct. 11–13	8:30	Ramada Inn, Bethesda, MD.
Bacteriology & Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301–496–7682.	Oct. 11–13	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 438, Tel. 301–496–7109.	Oct. 4–6	8:00	Omni Georgetown Hotel, Washington, DC.
Biochemical Endocrinology, Dr., Michael Knecht, Rm. 226, Tel. 301–496–7430, Dr. Biochemistry-1, Rm. 25, Tel. 301–496–28.	Oct. 4–6	8:30	NIH, Room 9, Bldg. 31C, Betheda, MD.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301–496–7516	Oct. 25–28	8:30	The Savoy Suites Hotel, Washington, DC.
Biochemistry-2, Dr. Alex Liacouras, Rm. 318A, Tel. 301–496–7517	Oct. 12–14	8:30	Key Bridge Holiday Inn, Arlington, VA.
Bio-Organic & Natural Products Chemistry, Dr. Harold Radkte, Rm. 2A07, Tel. 301–496–7107.	Oct. 19–21	9:00	Holiday Inn, Crowne Plaza, Rockeville, MD.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301–496–7070	Oct. 12–14	8:30	Lombardy Hotel, Washington, DC.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301–496–7058	Oct. 2–5	9:00	The Savory Suites Hotel, Washington, DC.
Cardiovascular & Pulmonary, Dr. Gordon L. Johnson, Rm. 439A, Tel. 301–496–7316.	Oct. 11–13	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Rosemalry Morris, Rm. 321, Tel. 301–496–7901.	Oct. 10–12	8:30	Holiday Inn, Bethesda, MD.
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301–496–7396.	Oct. 4–6	8:00	American Inn, Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Gerhard Ehrenspeck, Rm. 304, Tel. 301–496–7681.	Oct. 16–18	8:30	Holiday Inn, Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301–496–7078.	Oct. 11–13	8:00	Ramada Inn, Bethesda, MD.
Diagnostic Radiology, Dr. Catharine Wingate, Rm. 219B, Tel. 301–496–7650.	Oct. 18–20	8:30	Marbury House, Georgetown, DC.
Endorcinology, Dr. Harry Brodie, Rm. 333, Tel. 301–496–7346	Oct. 11–13	8:30	Holiday Inn, Bethesda, MD.
Epidemiology & Disease Control-1, Dr. Sooja Kim, Rm. 203C, Tel. 301–496–7246.	Oct. 11–13	8:30	Holiday Inn, Bethesda, MD.
Epidemiology & Disease Control-2, Dr. Horace Stiles, Rm. 340, Tel. 301–496–7246.	Oct. 11–13	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Experimental Cardioascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301–496–7940.	Oct. 11–13	8:00	Holiday Inn, Bethesda, MD.
Experimental Immunology , Dr. Calbert Laing, Rm. 222B, Tel. 301–496–7238.	Oct. 10–12	8:30	Holiday Inn, Georgetown, DC.
Experimental Therapeutics-1, Dr. Philip Perkins, Rm. 221, Tel. 301–496–7839.	Oct. 11–13	8:00	The Savoy Suites Hotel, Washington, DC.
Experimental Therapeutics-2, Dr. Marcia Litwack, Rm. 2A03, Tel. 301–496–8848.	Oct. 26–27	8:30	The Savoy Suites Hotel, Washington, DC.

Study section	October–November 1989 meetings	Time	Location
Experimental Virology, Dr. Garrett V. Keefer, Rm. 206, Tel. 301–496–7474.	Oct. 16–18	8:30	NIH, Room 8, Bldg. 31C, Bethesda, MD.
General Medicine A–1, Dr. Harold Davidson, Rm. 354A, Tel. 301–496–7797.	Oct. 11–13	8:30	NIH, Room 9, Bldg. 31C, Bethesda, MD.
General Medicine A-2, Dr. Mushtaq Khan, Rm. 354B, Tel. 301–496–7140.	Oct. 25–27	8:30	NIH, Room 6, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Daniel McDonald, Rm. 322, Tel. 301–496–7730	Oct. 11–13	8:00	Marbury House, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301–496–7271	Oct. 19–21	9:00	NIH, Room 6, Bldg. 31C, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 1A03, Tel. 301–496–7494	Oct. 16–18	8:30	St. James Hotel, Washington, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301–496–7508	Oct. 26–28	8:00	Hyatt Regency, Bethesda, MD.
Hematology-2, Dr. Jerrold Fried, Rm. 355B, Tel. 301–496–7508	Oct. 18–20	8:30	Holiday Inn, Georgetown, DC.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301–496–7025.	Oct. 11–13	9:00	Lowes Beach Hotel, Santa Monica, CA.
Human Development & Aging-2, Dr. Louis Quatrano, Rm. 305, Tel. 301–496–7640.	Oct. 18–20	9:00	Holiday Inn, Georgetown, DC.
Human Development & Aging-3, Dr. Anita Sostek, Rm. 2A05, Tel. 301–496–8814.	Oct. 26–28	8:30	Holiday Inn, Georgetown, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 319A, Tel. 301–496–7597.	Oct. 24–25	8:00	Holiday Inn, Georgetown, DC.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301–496–7780	Oct. 25–27	8:30	Holiday Inn, Chevy Chase, MD.
Immunological Sciences , Dr. Anita Corman Weinblatt, Rm. 233A, Tel. 301–496–7179.	Oct. 18–20	8:30	Holiday Inn, Chevy Chase, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301–496–7271	Oct. 19–21	8:30	The Savoy Suites Hotel, Washington, DC.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. 2A07, Tel. 301–496–7107	Oct. 10–12	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Metabolic Pathology, Dr, Marcelina Powers, Rm. 435, Tel. 301–496–5251.	Oct. 30–Nov. 2	8:00	Holiday Inn, Georgetown, DC.
Metabolism, Dr. Krish Krishnan, Rm. 339A, Tel. 301–496–7091	Oct. 19–21	8:00	Holiday Inn, Bethesda, MD.
Metallobiochemistry, Dr. Edward Zapolski, Rm. 310, Tel. 301–496–7733	Oct. 12–14	8:30	Dupont Plaza Hotel, Washington, DC.
Microbial Physiology & Genetics-1, Dr. Martin Slater, Rm. 238, Tel. 301–496–7193.	Oct. 25–27	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel, Rm. 357, Tel. 301–496–7130.	Oct. 25–27	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Molecular & Cellular Biophysics, Dr. Patricia Jost, Rm. 236A, Tel. 301–496–7060.	Oct. 11–13	8:30	One Washington Circle Hotel, Washington, DC.
Molecular Biology, Dr. Zain Abedin, Rm. 328, Tel. 301–496–7830	Oct. 12–14	8:30	Holiday Inn, Bethesda, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301–496–7149	Oct. 5–7	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Neurological Sciences-1, Dr. Allen C. Stoolmiller, Rm. 437B, Tel. 301–496–7279.	Oct. 11–13	8:00	Marbury House, Georgetown, DC.
Neurological Sciences-2, Dr. Stephen Gobel, Rm. 1A05, Tel. 301–496–8808.	Oct. 3–5	8:30	Holiday Inn, Georgetown, DC.
Neurology A, Dr. Katherine Woodbury, Rm. 303A, Tel. 301–496–7506	Oct. 26–28	8:30	Embassy Square Suites, Phoenix, AZ.
Neurology B-1, Dr. Jo Ann McConnell, Rm. 152, Tel. 301–496–7846	Oct. 17–19	8:30	Hotel Washington, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 152, Tel. 301–496–7422	Oct. 16–18	8:30	The Columbia Inn, Columbia, MD.
Neurology C, Dr. Kenneth Newrock, Rm. 232, Tel. 301–496–5591	Oct. 18–20	8:30	The Savoy Suites Hotel, Washington, DC.
Nursing Research, Dr. Gertrude McFarland, Rm. A18, Tel. 301–496–0558.	Oct. 23–25	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Nutrition, Dr. Ai Lien Wu, Rm. 204, Tel. 301–496–7178	Oct. 16–18	8:30	NIH, Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology & Medicine-1, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301–496–7818.	Oct. 9–12	8:30	Quality Inn Capitol Hill Hotel, Washington, DC.
Oral Biology & Medicine-2, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301–496–7818.	Oct. 16–19	8:30	Quality Inn Capitol Hill Hotel, Washington, DC.
Orthopedics & Musculoskeletal, Dr. Ileen Stewart, Rm. 350, Tel. 301–496–7581.	Oct. 18–20	8:30	Marriott Hotel, Pooks Hill, Bethesda, MD.
Pathobiochemistry, Dr. Zakir Bengali, Rm. A26, Tel. 301–496–7820	Oct. 18–20	8:30	The Pavilion Hotel, Rockville, MD.
Pathology A, Dr. Houston Baker, Rm. 337, Tel. 301–496–7305	Oct. 17–20	7:00 p.m.	Holiday Inn, Silver Spring, MD.
Pathology B , Dr. Martin Padarathsingh, Rm. 352, Tel. 301–496–7244	Oct. 11–13	8:00	Ramada Inn, Bethesda, MD.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301–496–7408	Oct. 17–19	8:3.0	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 218B, Tel. 301–496–7120	Oct. 23–25	8:30	Holiday Inn, Washington, DC.
Physiological Chemistry, Dr. Stanley Burrous, Rm. 339B, Tel. 301–496–7837.	Oct. 19–21	8:00	Holiday Inn, Chevy Chase, MD.
Physiology, Dr. Michael A. Lang, Rm. 209, Tel. 301–496–7878	Oct. 18–20	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Radiation, Dr. John Zimbrick, Rm. 219A, Tel. 301–496–7073	Oct. 23–25	8:30	Holiday Inn, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301–496–7318.	Oct. 2–4	8:30	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Abubaker A. Shaikh, Rm. 325B, Tel. 301–496–8857.	Oct. 11–13	8:30	Holiday Inn, Georgetown, DC.
Respiratory & Applied Physiology, Dr. Clyde Watkins, Rm. 218A, Tel. 301–496–7320.	Oct. 23–24	8:30	Holiday Inn, Bethesda, MD.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 1A03, Tel. 301–496–7550.	Oct. 18–20	8:30	Capitol Holiday Inn Hotel, Washington, DC.
Social Sciences & Population, Ms. Carol Campbell, Rm. 210, Tel. 301–496–7906.	Oct. 12–14	9:00	Hampshire Hotel, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 322, Tel. 301–496–7027.	Oct. 2–3	8:00	Holiday Inn, Bethesda, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 319B, Tel. 301–496–7771.	Oct. 23–25	2:00 p.m.	Holiday Inn, Bethesda, MD.
Toxicology, Dr. Alfred Marozzi, Rm. 205, Tel. 301–496–7570	Oct. 25–27	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Tropical Medicine & Parasitology, Dr. Jean Hickman, Rm. 334, Tel. 301–496–1190.	Oct. 16–18	8:00	Embassy Square Suites, Washington, DC.
Virology, Dr. Bruce Maurer, Rm. 309, Tel. 301–496–7605	Oct. 19–21	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Visual Sciences A-1, Dr. Anita Suran, Rm. 207, Tel. 301–496–7000	Oct. 18–20	8:30	The Savoy Suites Hotel, Washington, DC.

Study section	October–November 1989 meetings	Time	Location
Visual Sciences A-2, Dr. Jane Hu, Rm. 439A, Tel. 301–496–7795	Oct. 17–21	8:30	One Washington Circle Hotel, Washington, DC.
Visual Sciences B, Dr. Leonard Jakubczak, Rm. 325, Tel. 301–496–7251	Oct. 4–6	8:30	Holiday Inn, Chevy Chase, MD.

[Catalaog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS).

Dated: September 12, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–22112 Filed 9–19–89; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contract Review Committee, National Cancer Institute, National Institutes of Health, October 2, 1989, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on October 2 from 9 a.m. to 10 a.m. to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on October 2 from 10 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. The proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lalita D. Palekar, Executive Secretary, Developmental Therapeutics Contract Review Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7575) will furnish substantive program information.

Dated: September 12, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–22113 Filed 9–19–89; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency for Toxic Substances and Disease Registry; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HT (Agency for Toxic Substances and Disease Registry) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (50 FR 25129–25130, dated June 17, 1985, as amended most recently at 54 FR 33617–18, August 15, 1989) is further amended to reflect recently approved organizational changes. Specific changes include (1) establishing within the Office of the Assistant Administrator the Office of Program Operations and Management, the Office of Information Resources Management, and the Office of Policy and External Affairs; (2) abolishing the Office of Health Assessment and the Office of External Affairs; and (3) establishing the Division of Health Assessment and Consultation, the Division of Health Studies, the Division of Toxicology, and the Division of Health Education.

The headings and functional statements for the *Office of External Affairs (HTB2)* and the *Office of Health Assessment (HTB3)* are hereby deleted in their entirety and the following are substituted:

Office of Program Operations and Management (HTB1). (1) Plans, manages, directs, and conducts the administrative and management operations of the Agency; (2) reviews the effectiveness and efficiency of administration and operation for all Agency programs; (3) develops and directs systems for human resource management, financial services, procurement requisitioning, and travel authorization; (4) provides and coordinates services for the extramural awards activities of the Agency; (5) formulates and executes the budget; (6) develops and directs a system for cost recovery; (7) coordinates Freedom of Information Act requests.

Office of Policy and External Affairs (HTB4). (1) Coordinates and recommends policy and develops and implements planning systems for the Agency; (2) develops and manages an evaluation program to ensure adequacy and responsiveness of ATSDR activities; (3) participates in reviewing and preparing legislation, briefing documents, and other legislative matters and in coordinating Congressional testimony; (4) maintains liaison and coordinates with other Federal agencies for program planning and evaluation; (5) maintains liaison with appropriate Offices of General Counsel; (6) provides public relations and publication-related activities; (7) monitors and prepares reports on health-related activities to comply with provisions of relevant legislation; (8) coordinates the development, review, and approval of Federal regulations, **Federal Register** announcements, requests for OMB clearance, and related activities for ATSDR; (9) coordinates the planning of capacity development efforts for State and local agencies.

Office of Information Resources Management (HTB5). (1) Coordinates the development of ATSDR information resources management strategic plans; (2) coordinates the acquisition, development, installation, management, support, and evaluation of ATSDR-wide information technology, systems, and services; (3) maintains and coordinates information facilities and a public docket room.

Division of Health Assessment and Consultation (HTB6). (1) Conducts health assessments, when appropriate, to determine the extent of danger to public health from release or threatened release of hazardous substances at Superfund or RCRA sites; (2) provides health consultation services for potential health threats at Superfund and RCRA sites; (3) provides broad-based technical assistance and consultation on request to Federal, State, and local agencies and other

organizations for public health/scientific matters related to Superfund and RCRA sites; (4) coordinates all activities associated with emergency response to toxic and environmental disasters, including capacity building for emergency response; (5) initiates specific research programs appropriate to its mandated mission.

Division of Health Education (HTB7). (1) Coordinates health communication and education, developmental and educational activities for emergency response, and hazardous waste worker safety and health with Federal, State, and local agencies and private organizations; (2) develops and disseminates to physicians and other health care providers materials on the health effects of toxic substances; (3) establishes and maintains a list of areas closed or restricted to the public because of contamination with toxic substances; (4) initiates research related to its mandates that will help prevent adverse health effects from hazardous substances.

Division of Health Studies (HTB8). (1) Coordinates all activities associated with epidemiologic and other health studies, surveillance activities, and registries; (2) provides medical and epidemiologic assistance and consultation; (3) performs epidemiologic investigations and designs and conducts human exposure assessments; (4) establishes and maintains a national registry of persons exposed to toxic substances and a national registry of serious diseases and illnesses; (5) implements extramural research programs that involve human health investigations.

Division of Toxicology (HTB9). (1) Coordinates all activities associated with toxicologic profiles and toxicologic research; (2) identifies and publishes a list of the most hazardous substances related to Superfund releases and sites; (3) provides chemical-specific consultations as needed; (4) initiates research to expand knowledge of the relationship between exposure to hazardous substances and adverse human health effects through toxicologic studies of hazardous substances; (5) coordinates ATSDR toxicology activities with the EPA, NTP, and other appropriate Federal, State, local, or public programs.

Dated: September 5, 1989.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 89-22166 Filed 9-19-89; 8:45 am]

BILLING CODE 4160-70-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-050-4360-10]

Idaho Emergency Closure of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency closure of public lands.

SUMMARY: Notice is hereby given that effective immediately the following public lands in the Carey Allotment are closed to all vehicles access: T. 1S., R. 21E.; all lands within the allotment in the N½ of Section 32; all lands within the allotment in the E½ of Section 19; T. 1S., R. 20E. The approximately 600 acres affected by the closure are in the Shoshone District Monument Resource Area.

The purpose of this closure is to prevent all vehicle use on two vehicle routes in the allotment that were installed as temporary access roads for a power transmission line construction project. The impacts of the temporary road construction are being rehabilitated in accordance with the terms and conditions of Right-of-Way Grant IDI 20207.

The authority for this closure is 43 CFR 2801.2(b). The closure will remain in effect until reclamation has been achieved on two vehicles routes legally described in the above paragraph.

K. Lynn Bennett,

District Manager.

[FR Doc. 89-22163 Filed 9-19-89; 8:45 am]

BILLING CODE 4310-66-M

[UT-050-09-4351-09]

Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Comment Period.

SUMMARY: The Environmental Assessment (EA) for the Richfield District Animal Damage Control Plan is available for public comment. The EA covers the entire District which includes the following Wilderness Study Areas: Deep Creek(UT-050-020), Fish Springs(UT-050-127), Rockwell(UT-050-186), Swasey Mtn.(UT-050-061), Conger Mtn.(UT-050-035), Howell Peak(UT-050-077), King Top (UT-050-070), Notch Peak (UT-050-078), Wah Wah Mtn.(UT-050-073), Mount Ellen/Blue Hills(UT-050-238), Bull Mountain (UT-050-242), Dirty Devil(UT-050-236A), French Spring/Happy Canyon(UT-050-236B), Fiddler Butte(UT-050-241), Mount Hillers(UT-050-249), Mount Pennell(UT-050-248), Fremont Gorge(UT-050-221), Horseshoe Canyon(UT-050-237), and Little Rockies(UT-050-247). The comment period will end 30 days from publication in the **Federal Register**. For further information, contact Roy Edmonds at (801) 896-8221. Copies of the FEA will be available at the Richfield District Office, 150 East 900 North, Richfield, Utah 84701.

Dated: September 6, 1989.

Jerry Goodman,

District Manager, Richfield District Office.

[FR Doc. 89-22129 Filed 9-19-89; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-060-065-4352-12]

Temporary Emergency Quarantine in the Desert Tortoise Natural Area and Western Rand Mountains Area of Critical Environmental Concern (ACEC); Ridgecrest Resource Area, Kern County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary emergency closure on public lands in eastern Kern County, California.

SUMMARY: Notice is hereby given that a temporary emergency quarantine will be put into effect for all public land in the Desert Tortoise Natural Area (DTNA) and the Western Rand Mountains Area of Critical Environmental Concern (ACEC) in Kern County, CA. Additionally, use restrictions will be placed on adjacent public lands in the Rand Mountains/Fremont Valley management area. This area is bordered on the west, south, and southeast by private lands. The Desert Tortoise Natural Area fence, Koehn Lake, and Willis Well Road constitute the physical boundaries of the quarantine area. The adjacent public lands in the Rand Mountains/Fremont Valley management area are bounded by private land and the Mojave-Randsburg Road on the south, U.S. Highway 395 on the east (excluding the communities of Randsburg, Johannesburg, Red Mountain and Atolia), the quarantine area on the west and the Garlock Road on the north.

The quarantine area encompasses approximately 35,760 acres of public land and 640 acres of State land administered by the California Department of Fish and Game. The Rand Mountains/Fremont Valley management area to be affected by the road net closure encompasses

approximately 31,800 acres of public lands. A map of the quarantine area and the adjacent Rand Mountains/Fremont Valley management area is available at the Bureau of Land Management, Ridgecrest Resource Area, 112 East Dolphin Avenue, Ridgecrest, California.

Order

Effective October 1, 1989, the following temporary emergency restrictions will be in effect for the Desert Tortoise Natural Area and the Western Rand Mountains Area of Critical Environmental Concern, and will remain in effect for up to one year. All human activities, except for those administratively authorized, will be excluded from the Desert Tortoise Natural Area and the Western Rand Mountains Area of Critical Environmental Concern. Human activities include but are not limited to camping, hiking, vehicle use (or or off roads and trails), shooting, hunting, rockhounding, sightseeing, livestock grazing, etc. Exceptions to the exclusions would be administratively approved access for actions such as monitoring, research studies, mining activities, and access to private lands. Other actions would be considered on a case-by-case basis. The Bureau of Land Management also encourages application for deferment of assessment work on mining claims during the quarantine period. The Willis Well road on the eastern side of the Western Rand Mountains Area of Critical Environment Concern will remain open for public use.

Effective October 1, 1989, the following use restrictions on adjacent public lands to the east in the Rand Mountains/Fremont Valley management area will be in effect until the Rand Mountains/Fremont Valley Management Plan is finalized. All roads and trails, except for the Willis Well, Goler, Garlock, Red Rock/Randsburg, and Randsburg/Mojave roads, will be closed to public use until BLM signs roads or trails open or closed to public use. Exceptions to the road and trail closure, in addition to those noted, are access to residences, active mining operations, and communication sites (Government Peak). Access to mining claims can be approved under mining plans of operation, however, the Bureau of Land Management encourages mining claimants to file an application for deferment of assessment work until the Rand Mountains/Fremont Valley Management Plan is finalized. Sheep grazing will be allowed east of Willis Well Road pursuant to stipulations established in the California Desert Conservation Area Plan. No more than five bands of 800 sheep plus lambs will be allowed. Future grazing will be as stipulated in the Rand Mountains/Fremont Valley Management Plan.

Authority for the temporary closure and interim use restrictions is contained in title 43 CFR 8364. Violation of these restrictions is punishable by a fine not to exceed $1,000 and/or 12 months in jail.

SUPPLEMENTARY INFORMATION: The purpose of the temporary emergency closure and use restrictions are to provide increased protection for the Desert Tortoise populations and habitat in the Desert Tortoise Natural Area, Western Rand Mountains ACEC, and the Rand Mountains/Fremont Valley management area. Recent data from studies in the area have shown there to be at least a 50 percent decline in tortoise numbers since 1982. There are indications that current activities coupled with 3 years of drought may be raising the level of stress in the tortoises, making them more susceptible to an upper respiratory disease that has reached epidemic proportions. Data gathered in 1989 in Fremont Valley indicate that more than 50 percent of the adult tortoises have symptoms of the disease.

This area contains some of the highest known population densities of desert tortoises and is highly crucial habitat. A comprehensive management plan for the area, excluding the Desert Tortoise Natural Area which has a management plan, is being prepared to ensure that the best possible management protection will be provided for the remaining desert tortoise population while allowing for other multiple-use activities. It is anticipated the management plan for the area will be completed early in 1990. Upon completion of the plan and designation of the route network in the area, the quarantine and use restrictions will be lifted and management actions stipulated in the Rand Mountains/Fremont Valley Management Plan will be implemented and enforced.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Hillier, District Manager, Bureau of Land Management, 1695 Spruce Steet, Riverside, California 92507, (714) 351–6386

or

Lee Delaney, Area Management, Bureau of Land Management, 112 East Dolphin Street, Ridgecrest, California 93555, (619) 375–7125.

Dated: September 14, 1989

Gerald E. Hillier,

District Manager.

[FR Doc. 89–22155 Filed 9–19–89; 8:45 am]

BILLING CODE 4352-40-M

[ID-010-09-4320-02]

Meeting; Boise District Advisory Council

AGENCY: Boise District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Boise District Advisory Council will meet September 26 to discuss the proposed expansion of the Saylor Creek Bombing Range in the district's Jarbidge and Owyhee Resource Areas. Time permitting, the council will also discuss an environmental assessment for boating on the Owyhee River, and wildlife-related road closures on BLM lands.

DATES: The meeting will begin at 8:30 a.m. on Tuesday, September 26. It will be held in the district office conference room.

ADDRESS: The Boise District Office is located at 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Barry Rose, BLM Boise District, (208) 334–9661.

Rodger E. Schmitt,

Associate District Manager.

[FR Doc. 89–22164 Filed 9–19–89; 8:45 am]

BILLING CODE 4310-GG-M

[CO-050-4212-13]

Notice of Realty Action; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action COC–47763, Proposed exchange of public lands for private lands in Alamosa, Boulder, Fremont, Park and Teller Counties, Colorado.

SUMMARY: The following public land has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Sixth P.M., Colorado

T.14S., R.70W., Teller County
- Section 28, Lots 4, 10, 11, 12, 13, 14
- Section 29, Lots 6, 7, 8, 9, 12, 13
- Section 32, Lots 14, 17, 18, 19, 20, 22, 23, 26, 29, 30
- Section 33, Lots 2, 5
- Section 34, All Public lands in W½

T.15S., R.70W.
- Section 3, Lots 71, 74, 75, 81, 82, 84

T.12S., R.69W.

Section 18, Lot 1
T.16S., R.68W.,
Section 1, Lot 4
Section 2, Lots 1, 2, 3, 4, SW¼SW¼
Section 3, Lots 1, 4, 5, 8, 12, NW¼SW¼, less M.S. 10542
Section 4, Lots 1, 2
Section 5, Lots 1, 2, 3, 4
Section 6, Lots 1, 2, 3
Section 10, SE¼SE¼
T.15S., R.73W., Park County
Section 12, SE¼NE¼
T.1N., R.71W., Boulder County
Section 18, Lot 38
T.20S., R.73W., Fremont County
Section 10, SW¼SE¼
Section 14, S½NW¼
Section 29, SW¼SW¼
Section 31, SW¼SE¼
Section 32, W½W½, NE¼NE¼

New Mexico Principal Meridian, Colorado

T.47N., R.12E.
Section 17, SW¼SW¼
Section 25, Lot 2, E½SE¼
Section 28, SW¼SW¼
Totalling 2,191.39 acres.

In exchange, the United States would acquire the following private land from Shepard and Associates, Public Land Exchange Division:

Sixth Principal Meridian, Colorado

T.17S., R.70W., Fremont County
Section 7, NE¼SW¼, SE¼SW¼
Section 18, Lots 1, 2, NE¼NW¼
Section 19, Lots 1, 2, 3, 4, SE¼SW¼
T. 17S., R.71W.
Section 12, SW¼SE¼
Section 13, NE¼, E½SE¼
Section 24, E½NE¼
T.16S., R.73W.
Section 3, Lots 11, 12, E½SW¼
Section 4, NW¼SE¼, S½SE¼
Section 9, E½
Section 10, N½, W½SW¼, SE¼SW¼
Section 15, W½NE¼, E½NW¼, W½W½
Section 22, W½NW¼

New Mexico Principal Meridian

T.38N., R.12E., Alamosa County
Section 17, All except canal right-of-way.

Section 18, E½NE¼, SW¼NE¼, NW¼
Totalling 3088.38 acres.

DATES: Comments must be received on or before November 6, 1989.

ADDRESSES: Submit comments to District Manager, Bureau of Land Management, Canon City District Office, P.O. Box 311, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Stu Parker at the above address or phone (719) 275–0631.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to dispose of scattered public lands identified for disposal in the Bureau planning documents, and acquire three larger parcels of private land that connect to large parcels of public land, thus improving access, manageability and usability by the public. Land values will be equalized by acreage adjustments or by cash equalization payments following formal appraisal. Approximately 1700 acres of Federal minerals will be transferred with the surface and about 1000 acres of private minerals will be acquired with the private surface. Conveyance of the public lands will be subject to a reservation to the United States of a right-of-way for ditches and canals (Act of August 30, 1890), and all other existing rights including roads, powerlines, and water storage facilities. Site specific information on rights-of-way and mineral reservations is available at the Canon City Office.

Grazing leases will be cancelled on the public lands: lessees not previously notified of cancellation will be allowed a two year period before cessation of grazing use unless such period is waived.

Publication of this notice segregates the public lands from settlement, sale, location and entry under the public land laws, including the mining laws, except for exchange for a period of two years from publication of this notice.

Donnie R. Sparks,
District Manager.

[FR Doc. 89–22121 Filed 9–19–89; 8:45 am]
BILLING CODE 4310–JB–M

[U–63235; UT–040–09–4212–11]

Realty Action; Classification of Public Lands in Utah for Recreation or Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: The following described lands have been determined to be suitable for classification for recreation and public purposes under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*): Salt Lake Meridian, Utah, T 43 S, R 2 E, sec. 10, E2SENE; sec. 11, SWNW, S2SENW, containing 80 acres. These lands have also been found suitable for lease/sale under the Act. The lands described above are hereby segregated from appropriation under any other public law, including locations under the mining laws.

SUMMARY: The town of Big Water, Utah has applied under the Act for a 10 acre site to be developed as a municipal multi-purpose community recreation complex including a ball field, picnic area, and playground. The Kane County, Utah School District has applied under the act for a 70 acre site to initially construct a single school, grades kindergarten through 12, and eventually also construct separate middle and high schools as growth dictates. The land will be leased pending substantial development of the site as outlined in the applicants' plans of development. Upon substantial development, the land will be sold under the Act.

DATE: Interested parties may submit comments on or before November 3, 1989.

ADDRESS: Detailed information concerning this proposal may be obtained from the Bureau of Land Management, Kanab Resource Area Office, 318 North First East, Kanab, Utah 84741, (801) 644–2672. Comments should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: The terms and conditions applicable to the lease/sale are: Lease/Patent will be subject to all valid existing rights, including an electrical distribution line right-of-way (U–035037).

Any objections received during the comment period will be reviewed and the State Director may sustain, vacate, or modify this realty action. In the absence of any objections, this Realty Action Notice will become the final determination of the Department of Interior.

Dated: September 13, 1989.

Gordon R. Staker,
District Manager.

[FR Doc. 89–22202 Filed 9–19–89; 8:45 am]
BILLING CODE 4310–DQ–M

[NM–010–09–4111–08]

Farmington, Taos and Rio Puerco Management Plan (RMP); Amendment and an Environmental Impact Statement (EIS) for the Albuquerque District

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare a Districtwide amendment to the Farmington, Taos and Rio Puerco Management Plans. The Amendment will also include an Environmental Impact Statement (EIS).

SUMMARY: The Albuquerque District hereby gives notice of its intent to prepare a Districtwide RMP amendment and Environmental Impact Statement. The planning action will amend RMP's for the Farmington, Taos and Rio Puerco Resource Areas. The three Resource Areas comprise the Albuquerque District and contain approximately 6.7 million acres of public lands and public minerals underlying private and Indian lands. The primary purpose of the

amendment is to incorporate the latest BLM supplemental program guidance (BLM Manual section 1624.2) for fluid minerals and to evaluate identified Special Management Areas (SMA's) for their potential as Areas of Critical Environmental Concern (ACEC). The planning action will result in a determination as to which public lands and minerals should be made available for oil and gas development through leasing, and what lease stipulations may be necessary to protect other resource values. The issues anticipated include:

1. Determining if existing lease stipulations are proper and sufficient to protect other resource values.
2. Determining if there is additional Federal mineral estate that should be considered for oil and gas leasing.
3. Identifying the cumulative impacts of oil and gas development.
4. Clarification of stipulations applied at lease issuance and conditions of approval applied prior to development activities.
5. Identifying lease stipulations necessary to address Indian concerns and protect wildlife, fragile soils, water resources and other resource values.
6. Determining the impact of lease stipulations on oil and gas development.
7. Determining what effect fluid mineral leasing activities have on designated ACEC's and SMA's, given reasonable, foreseeable development scenarios.
8. Evaluating identified special management areas to determine if they qualify for ACEC designation.

The preliminary planning criteria used to address these issues are summarized below:

1. Consult with appropriate representatives of the oil and gas industry to identify mineral potential.
2. Apply applicable laws and regulations to identify land eligible for leasing.
3. Assess the suitability of the land to incur oil and gas development, and the availability of oil and gas resources.
4. Compare the public values of oil and gas development with the public values of other alternative uses which may be precluded or impacted.

The plan amendments will be prepared using a variety of resource specialists including persons trained in geology, hydrology, soils, air, wildlife, range, recreation, realty, surface protection and economics.

DATES: Public comment on the proposed issues, planning criteria and resource disciplines will be accepted for 30 days following publication of this Notice. In addition, public scoping meetings will be held in November. At least two weeks advance notice of the time and dates of these meetings will be provided. Additional public participation opportunities will be provided throughout the development of this RMP Amendment.

ADDRESSES: Comments should be addressed to Ron Fellows, Area Manager, Bureau of Land Management, 1235 La Plata Highway, Farmington, NM 87401.

FOR FURTHER INFORMATION CONTACT: Joel E. Farrell, 1235 La Plata Highway, Farmington, NM 87401, (505) 327–5344.

Dated: September 14, 1989.

Larry L. Woodard,

State Director.

[FR Doc. 89–22154 Filed 9–19–89; 8:45 am]

BILLING CODE 4310-FB-M

[WY–040–09–4300–90]

Rock Springs District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Springs District Advisory Council.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Rock Springs District Advisory Council.

DATES: November 8, 1989, 9:30 a.m. until 4 p.m. and November 9, 1989, 8 a.m. until 3 p.m.

ADDRESS: Rock Springs District Office, Bureau of Land Management, Highway 191 North, Rock Springs, Wyoming 82901.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, (307) 382–5350.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

November 8, 9:30 a.m.

1. Introduction and opening remarks
2. Review of minutes from last meeting
3. Wild Horse Program Update
4. Rangeland Planning and Implementation
5. Briefing Topics: Centennial Activities, Wilderness Status, QUEST Program, "2000" Initiatives, FY 90 Budget
6. Green River Resource Management Plan
7. District Planning and Environmental Efforts
8. Public Comment Period

November 9, 8 a.m.

1. Tour of Public Lands north of Rock Springs.

The meeting is open to the public. Interested persons may make oral statements to the Council between 3 p.m. and 4 p.m., November 8, or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager at the above address by November 6, 1989.

Depending on the number of persons wishing to make oral statements, a time limit per person may be established by the District Manager.

Donald H. Sweep,

District Manager.

[FR Doc. 89–22203 Filed 9–19–89; 8:45 am]

BILLING CODE 4310-22-M

[WY–060–09–4410–08]

Intention To Prepare a Management Resource Plan; Newcastle Resource Area, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a Resource Management Plan and call for coal and other resource information for the Bureau of Land Management (BLM) Newcastle Resource Area, Casper District, Wyoming.

SUMMARY: The Casper District is initiating development of a resource management plan (RMP) to guide future management actions on the public lands within the Wyoming portion of the Newcastle Resource Area. An existing management framework plan (MFP) will continue to guide decisions for the Newcastle Resource Area until the RMP is completed.

The RMP will be a comprehensive land use plan that will allocate and identify public land and resource uses, resource condition management goals, land and resource use constraints, and general management practices needed to achieve RMP objectives. The plan will also identify lands to be retained in Federal ownership or to be considered for transfer from BLM administration (via public disposal, exchange, or transfer to another agency).

Requirements, standards, and procedures for preparing the Newcastle RMP/Environmental Impact Statement (EIS) are contained in 43 CFR parts 1600–1610 and BLM Manuals 1600–1631.

The RMP/EIS will conform with the BLM Washington Office guidance on standards for development of RMPs nationwide and the BLM Wyoming State Office guidance for RMP development in the State of Wyoming.

The Casper District will develop planning criteria to provide the public a preview of the types of management considerations that will be made in developing the RMP decisions.

DATE: The issue identification, planning criteria development, and inventory phases of the RMP/EIS process begins in October 1989. The RMP is scheduled to be completed by the Fall of 1992. Public meetings and other public involvement activities during the planning process will be announced through the **Federal Register**, local news media, and public mailings.

ADDRESS: Documentation of the RMP process and all planning documents will be available at: Newcastle Resource Area Office, 1501 Highway 16 Bypass, Newcastle, Wyoming 82701.

FOR FURTHER INFORMATION CONTACT: If you wish to be placed on the RMP mailing list, or if you wish to add to the list of public land and resource management issues, areas of conflict, or other problems and concerns to be considered in the RMP/EIS, contact Floyd Ewing, Newcastle Resource Area Manager, at the address above or telephone (307) 746–4453.

SUPPLEMENTARY INFORMATION: The Newcastle Resource Area includes Crook, Weston, and Niobrara counties in northeastern Wyoming, and the State of Nebraska. The RMP that is being initiated will address only the counties located in Wyoming. A separate planning analysis is being completed for Nebraska. The approximate acreage (in the Wyoming portion of the resource area) and the land and mineral ownership or administration is as follows:

Federal land surface and mineral estate both administered by the BLM—293,865 acres.

Federal mineral estate administered by the BLM; Federal land surface administered by other Federal agencies—400,800 acres.

Federal mineral estate administered by the BLM; land surface privately owned and or owned by the State of Wyoming—1,405,001 acres.

Land surface and minerals privately owned or owned by the State of Wyoming (over which the BLM has no administrative authority)—2,452,473 acres.

There is one designated area of environmental concern (ACEC), Whoop-up Canyon, which contains prehistoric petroglyphs, and one National Natural Landmark, Lance Creek, which is an extensive fossil area. Future management of these areas will be addressed in the RMP/EIS. Nominations for additional ACECs or other special designation areas, such as wild and scenic river segments, will be considered.

Public participation is an essential component of RMP development. Several techniques for public involvement will be used at each phase of the RMP/EIS process including: **Federal Register** announcements, one-on-one discussions with key groups and individuals, public meetings, and individual mailings to all parties who have expressed an interest in the process. The BLM is requesting the public to help identify additional problems, conflicts, or resource management opportunities that should be addressed in the planning process. Preliminary issues that have been identified thus far are (a) surface disturbance caused by uses of public land or development activities on public land; (b) accessibility of public land and resources; (c) competition for vegetation among various users of the public lands, and (d) retention or disposal of surface estate administered by the BLM.

Dated: September 8, 1989.

F. William Eikenberry,

Associate State Director.

[FR Doc. 89–22204 Filed 9–19–89; 8:45 am]

BILLING CODE 4310-22-M

[CO-050-4410-10]

Intention To Prepare a Resource Management Plan/Environmental Impact Statement for the Royal Gorge Resource Area, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management, Canon City District has begun preparation of the resource management plan (RMP) and associated environmental impact statement (EIS) for the Royal Gorge Resource Area in accordance with the Federal Land Policy and Management Act of 1976 (FLPMA) and 43 CFR part 1600.

SUMMARY: A resource management plan will be developed for the Royal Gorge Resource Area (RGRA). The intent of this planning action is to meet requirements of FLPMA and the National Environmental Policy Act (NEPA). This Resource Management Plan (RMP)/Environmental Impact Statement (EIS) will replace and supercede the three existing RGRA planning documents; the Raton Basin Management Framework Plan (RBMFP), the Royal Gorge Management Framework Plan (RGMFP), the Eastern Plains Planning Analysis (EPPA), as well as all plan maintenance changes and amendments to these documents. Three types of decisions will be developed in this land use planning process; resource condition objective decisions, land use allocation decisions, and management action decisions. An implementation schedule will be established for the above decisions, all needed activity plans, any necessary support actions, and plan monitoring and maintenance.

DATES: Three open houses will be held within the royal Gorge Resource Area; the first in Buena Vista, Colorado on Monday, January 8th, 1990, the second in Canon City, Colorado on Tuesday, January 9th, 1990, and the third in Walsenburg, Colorado on Wednesday, January 10th, 1990. Each open house will be held from 1:00 pm to 3:00 pm, and from 7:00 pm to 9:00 pm each day. The purpose of these open houses is to solicit public input on the RGRMP preliminary planning issues, obtain volunteers for the RMP/EIS workgroups, and to brief attendees on the Bureau's planning process. Additional meetings and public hearings will be held later in the planning process. Comments on the preliminary planning issues and the intitial conceptual alternatives must be submitted on or before Friday, January 26th, 1990. The Draft RMP/EIS is tentatively scheduled for completion by Spring of 1991, with the Final RMP/EIS is tentatively scheduled for completion by Spring of 1991, with the Final RMP/EIS being available in the Spring of 1992.

FOR FURTHER INFORMATION CONTACT: Interested parties may request a copy of the preliminary issues, volunteer for one or more of the RMP/EIS workgroups, and/or provide pertinent suggestions by writing: RMP Project, Bureau of Land Management, P.O. Box 1171, Canon City, Colorado 81212, or by calling the Project Leader, Dave Taliaferro at: (719) 275–0631.

SUPPLEMENTARY INFORMATION: Plan monitoring evaluations were completed on the Raton Basin Management Framework Plan (RBMFP), on the Royal Gorge Management Framework Plan (RGMFP), and on the Eastern Plains Planning Analysis (EPPA) during 1988 and 1989. These evaluations revealed significant deficiencies within these plans based on the specific program guidance and CFR 1600 planning regulations..

The RGRMP/EIS planning area will include all BLM managed lands within the following counties in the state of Colorado; Lake, Crowley, Chaffee, Kiowa, Park, Otero, Teller, Bent, El

Paso, Prowers, Fremont, Huerfano, Custer, Las Animas, Pueblo, and Baca. The entire Royal Gorge Resource Area covering all of southeast Colorado consists of an approximatley 34 million acres. Within this total resource area the RGRMP/EIS planning area will involve around 662,000 surface acres and about 2.7 million acres of subsurface mineral estate. Lands within this total resource area that are not involved in the planning area are those lands managed by other Federal agencies e.g. U.S. Forest Service National Forests and Grasslands, U.S. Bureau of Reclamation lands and reservoirs, U.S. National Park Service Monuments and Sites, U.S. Military lands and bases, State agency lands, and all private lands. Public comments, ideas, and suggestions are requested concerning the following very preliminary planning issues:

1. Identify BLM managed lands, for both surface acres and subsurface mineral estate, which are in need of conservation and environmental practices for Air Resources, Soil and Water Resources, Vegetation, and Visual Resources.

2. Determine what objectives and specific practices are needed on BLM managed lands to direct management for Fish and Wildlife Habitat, Forestry Resources, Livestock Forage, Cultural Resources Lands (disposal, authorizations rights-of-ways, withdrawals, etc.) Natural History (special designations), Recreation, and Wilderness.

3. Determine suitability and establish standards for BLM managed lands development and mangement for these Mineral Resources; Coal, Fluids (Oil and Gas, Geothermal Leasing) Locatables, and Mineral Material Disposal (Sand and Gravel, Rock, and other material sales).

4. Determine what support services are needed on BLM managed lands (e.g.; land and access acquisitions, engineering and construction, fire management, etc.)

The existing management alternative (no action alternative) will be analyzed as well as three other initial conceptual alternatives. A preferred alternative will be developed and utilized within the draft RGRMP/EIS. This spectrum of management alternatives will range from a "protection" or "conservation" alternative to a "production" or "development" alternative. All alternatives will meet the requirement to be reasonable and implementable.

RMP team members will represent the following disciplines; Recreation Management, Historical Resources, Wilderness Management, Archaeological Resources, Forestry Management, Soils & Water Resources, Lands & Realty Management, Grazing Management, Air Resources, Fire Management, Geological & Minerals Management, Wildlife Habitat Management, Sociological & Economical Analysis, Climate, Transportation, Paleontology, Planning, Hazards Mangement, Public Affairs, Landscape Architecture, and Engineering.

In addition to drawing upon the disciplines mentioned above the following user/interest input workgroups will be utilized during the planning process to obtain additional information and insight; Recreation, Wildlife, Minerals, Cultural, Grazing (Will use existing Canon City District Grazing Advisory Board), Sensitive Soils & Watershed, Transportation, Local Planning, Forestry, Offroad Vehicle, General Management Direction (Will use existing Canon City District Multiple Use Advisory Council) and Areas of Special Concern. Individual contacts, public workshops, meetings, and hearings as well as the workgroups mentioned above and large scale mailings at various stages of the planning process will be utilized to solicit participation from the public. Contacts will be made with various local, state, regional entities, and other federal agencies to assure that resource objectives, land use allocations, and management actions are well coordinated. A mailing list will be maintained with all interested parties, workgroups, agencies, etc. Timely news articles, newsletters, and other mass mailings will be disseminated at key points to assist in keeping the public at large, workgroups, and agencies fully informed. Anyone wishing to participate on one or more of the workgroups, to provide input/suggestions, or to be placed on the mailing list, please make a written request/response.

Donnie R. Sparks,

District Manager.

[FR Doc. 89-22205 Filed 9-19-89; 8:45 am]

BILLING CODE 4310-JB-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-289]

Certain Concealed Cabinet Hinges and Mounting Plates; Issuance of an Order

In the matter of: certain concealed cabinet hinges and mounting plates; notice of issuance of an order granting an application for interlocutory appeal filed by the Office of Unfair Import Investigations of a denial, in part, by the presiding Administrative Law Judge of a motion to quash a subpoena of a privileged Commission memorandum alleged to be relevant to allegations that complainant breached its duty of candor to the Commission; adoption, in part, of the order issued by the presiding Administrative Law Judge; and issuance of an opinion discussing the Commission's action.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued (1) an Order (i) granting an application for interlocutory appeal to the Commission by the Office of Unfair Import Investigations (OUII) of a denial, in part, by the presiding administrative law judge (ALJ) in the above-captioned investigation of OUII's motion to quash a subpoena ordering OUII to produce to complainant a privileged memorandum submitted to the Commission by OUII in connection with institution of the investigation; and (ii) adopting the ALJ's order (Order No. 103) to the extent it is consistent with the Commission Opinion issued concurrently with the Order; and (2) a Commission Opinion concurrently with the Order discussing the showing of relevancy and need necessary to overcome the deliberative process and work product privileges associated with the OUII memorandum, in the context of allegations that complainant breached its duty of candor to the Commission.

FOR FURTHER INFORMATION CONTACT: Calvin H. Cobb, III, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; telephone 202-252-1103.

Hearing impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On June 23, 1989, the ALJ granted an application for a subpoena by complainant Julius Blum, Inc. (Blum), requiring OUII to produce to Blum a copy of the memorandum submitted to the Commission by OUII prior to institution of the investigation (the OUII memorandum). On June 28, 1989, OUII filed a motion to quash the subpoena, alleging that the OUII memorandum is subject to the attorney client, deliberative process, and work product privileges, and that Blum had failed to establish the requisite need to overcome these privileges. On July 19, 1989, the ALJ issued Order No. 103 denying, in part, the motion to quash, and requiring OUII to submit the OUII memorandum to the ALJ for an *in camera* review. On July 21, 1989, the ALJ issued Order No.

107, staying the execution of Order No. 103 pending the Commission's decision on an application for interlocutory review of Order No. 103, to be filed by OUII with the Commission. .

On July 25, 1989, the Commission received from OUII an application for interlocutory review of Order No. 103. On July 28, 1989, the Commission received a response to the OUII application for interlocutory review from respondent Agnostino Ferrari S.p.A. On August 1, 1989, the Commission received complainant Blum's opposition to the application.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.70 of the Commission's Interim Rules of Practice and Procedure (53 FR 33034, 33073 (Aug. 29, 1989)).

By the order of the Commission.

Issued: September 13, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-22211 Filed 9-19-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-432 (Final)]

Drafting Machines and Parts Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-432 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of drafting machines and parts thereof, provided for in subheadings 9017.10.00 and 9017.90.00 of the Harmonized Tariff Schedule of the United States (previously under item 710.80 of the Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before November 1, 1989, and the Commission will make its final injury determination by December 22, 1989 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b)).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: August 25, 1989.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202-252-1200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of drafting machines and parts thereof from Japan are being sold, or are likely to be, in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 7, 1989, by Vemco Corp., San Dimas, CA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (54 FR 23293, May 31, 1989).

Participation in the investigation. Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list. Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list. Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report. The prehearing staff report in this investigation will be placed in the nonpublic record on October 26, 1989, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing. The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on November 14, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 6, 1989. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 9, 1989, at the U.S. International Trade Commission Building. Pursuant to

§ 207.22 of the Commission's rules (19 CFR § 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is November 8, 1989.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

Written submissions. Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 20, 1989. In addition, any person who has not entered an appearance as a party to the investigation, may submit a written statement of information pertinent to the subject of the investigation on or before November 20, 1989.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than November 24, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: September 15, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-22212 Filed 9-19-89; 8:45 am]

BILLING CODE 7020-02-M

[332-267]

Effects of Greater Economic Integration Within the European Community on the United States

AGENCY: United States International Trade Commission.

ACTION: Scheduling of followup reports.

SUMMARY: Following receipt on October 13, 1988, of a request from the Committee on Ways and Means of the United States House of Representatives and the Committee on Finance of the United States Senate, the Commission instituted investigation No. 332-267 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide objective factual information on the EC single market and a comprehensive analysis of its potential economic consequences for the United States. The Committees requested that the Commission provide the requested information and analysis to the extent feasible in an initial report by July 15, 1989, with followup reports as necessary to complete the investigation. Notice of institution of the investigation and scheduling of a hearing was published in the **Federal Register** of December 21, 1988 (53 DR 51328).

The report on the initial phase of the investigation was sent to the Committees on Monday, July 17, 1989; copies of the report "The Effects of Greater Economic Integration within the European Community on the United States" (Investigation 332-267, USITC Publication 2204, July 1989) may be obtained by calling 202-252-1809 or from the Office of the Secretary, U.S. International Trade Commission, 500 E St. SW., Washington, DC 20436. Requests can also be faxed to 202-252-2186.

Followup reports will be issued approximately every 6 months. Each will summarize the previous report and EC single market directives that become available after the cutoff date of the previous report. The followup reports will have a format similar to the original report.

EFFECTIVE DATE: September 11, 1989.

FOR FURTHER INFORMATION CONTACT: For further information on other than the legal aspects of the investigation contact Mr. John J. Gersic at 202-252-1342. For further information on the legal aspects of the investigation contact Mr. William W. Gearhart at 202-252-1091.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning the investigation. Written submissions to be considered by the Commission for the second report should be received by the close of business on November 30, 1989. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 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 available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Issued: September 13, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-22210 Filed 9-19-89; 8:45 am]

BILLING CODE 7020-02-M

New Steel Rails From Canada (Final); Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines,[2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is threatened with

[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h), as amended, 53 FR 33041 (Aug. 29, 1988)).

[2] Chairman Brunsdale, Vice Chairman Cass, and Commissioner Lodwick dissenting.

material injury [3] by reason of imports from Canada of new steel rails,[4] provided for in subheadings 7302.10.1020, 7302.10.1040, 7302.10.5000, and 8548.00.00 of the Harmonized Tariff Schedule of the United States, that have been founded by the Department of Commerce to be subsidized by the Government of Canada.

The Commission also determines,[5] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is threatened with material injury [6] by reason of imports from Canada of new steel rails, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these final investigations effective April 18, 1989, following preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended, are being provided to manufacturers, producers, or exporters of new steel rails in Canada, and that new steel rails from Canada are being, or are likely to be, sold in the United States at LTFV, as provided for in section 735 of the Tariff Act of 1930, as amended.

Notice of the institution of the Commission's final investigations, and of a public hearing to be held in connection therewith, was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 27, 1989 (54 FR 18168). The public hearing was held in Washington, DC, on July 27, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on September 8, 1989. The views of the Commission are contained in USITC Publication 2217 (September 1989), entitled "New steel rails from Canada: Determinations of the Commission in Investigation Nos. 701-TA-297 and 731-TA-422 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.
Issued: September 14, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-22213 Filed 9-19-89; 8:45 am]

BILLING CODE 7020-02-M

[3] Commissioners Eckes, Rohr, and Newquist further determine that, pursuant to section 705(b)(4)(B), they would not have found material injury by reason of the imports subject to the investigation but for the suspension of liquidation of the entries of the subject merchandise.

[4] For the purposes of these investigations, "new steel rails" include rails, whether or not of alloy steel, provided for in subheadings 7302.10.10 (statistical reporting numbers 7302.10.1020 and 7302.10.1040), 7302.10.50, and 8548.00.00 of the Harmonized Tariff Schedule of the United States (previously in items 610.2010, 610.2025, 610.2100, and 688.4280 of the Tariff Schedules of the United States Annotated). Specifically excluded from the scope of these investigations are imports of "light rails," which are less than 30 kilograms per meter (60 pounds per yard), such as are used in amusement part rides. "Relay rails," which are used rails that have been taken up from a primary railroad track and are suitable to be reused as rails (such as on a secondary rail line or in a rail yard), are also excluded.

[5] Chairman Brunsdale, Vice Chairman Cass, and Commissioner Lodwick dissenting.

[6] Commissioners Eckes, Rohr, and Newquist further determine that, pursuant to section 735(b)(4)(B), they would not have found material injury by reason of the imports subject to the investigation but for the suspension of liquidation of the entries of the subject merchandise.

[Investigation No. 337-TA-303]

Certain Polymer Geogrid Products and Processes Therefor; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the International Trade Commission on August 10, 1989, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of The Tensar Corporation, 1210 Citizens Parkway, Morrow, Georgia 30260. A supplement to the complaint was filed on August 31, 1989. The complaint, as supplemented, alleges violations of:

(1) Subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain polymer geogrid products by reason of direct or induced infringement of claims 1, 3, 4, 6, 7, 8, 9, 10, 11, 17, 18 and 19 of U.S. Letters Patent 4,756,946, and claims 1, 2, 3, 4, 6, 7, 14, 15, 16, 17, 18, 20 and 21 of U.S. Letters patent 4,374,798; and

(2) Subsection (a)(1)(B)(ii) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain polymer geogrid products made abroad by a process covered by claims 1, 2, 3, 4, 6, 7, 14, 15, 16, 17, 18, 20 and 21 of U.S. Letters Patent 4,374,798;

and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT: Cary M. Hnath, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.12 of the Commission's Interim Rules of Practice and Procedure, 53 Fed. Reg. 33034, 33057 (Aug. 29, 1988).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 11, 1989, *Ordered*, That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain polymer geogrid products by reason of direct or induced infringement of claims 1, 3, 4, 6, 7, 8, 9, 10, 11, 17, 18 or 19 of U.S. Letters Patent 4,756,946, or claims 1, 2, 3, 4, 6, 7, 14, 15, 16, 17, 18, 20 or 21 of U.S. Letters patent 4,374,798; or

(b) Whether there is a violation of subsection (a)(1)(B)(ii) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain polymer geogrid products made abroad by a process covered by claims 1, 2, 3, 4, 6, 7, 14, 15, 16, 17, 18, 20 or 21 of U.S. Letters Patent 4,374,798; and

(c) Whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

The Tensar Corporation, 1210 Citizens Parkway, Morrow, Georgia 30260.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

RDB Plastotechnica SpA, Via Dell' Industria, 22060 Vigano Brianza (Como), Italy

Tenax Corporation, 8921 Patuxent Range Road, Jessup, Maryland 20794

(c) Gary M. Hnath, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Room 401–0, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with sections 210.21 of the Commission's Interim Rules of Practice and Procedure, 53 FR 33034, 33057, 33063 (Aug. 29, 1988). Pursuant to §§ 201.16(d) and 210.21(a) of the Commission's Rules (19 CFR 201.16(d) and 53 FR 33034, 33059 (Aug. 29, 1988)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondents, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: September 12, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–22214 Filed 9–19–89; 8:45 am]

BILLING CODE 7020-02-M

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

AGENCY: United States International Trade Commission.

ACTION: Notice of receipt from the U.S. Trade Representative (USTR) of additional supplemental information.

Background

In her letter to the Commission on July 17, 1989, the USTR provided a list of subheadings in the U.S. Harmonized Tariff Schedule which may be considered for acceleration of tariff removal under the United States-Canada Free-Trade Agreement and requested the Commission's advice as to the probable economic effect of such accelerated elimination on domestic industries producing like or directly competitive articles and on consumers.

Ambassador Hills indicated in her letter that a number of the petitions received by the Governments of the United States and Canada requested acceleration only for selected products within a subheading, and that to the extent possible separate additional advice was desired on the effect of acceleration of tariff elimination on the narrow product coverage specified in such petitions.

On August 4, 1989, the Commission received from the USTR a list of such selected products within subheadings contained in petitions to the USTR. On September 7, 1989, the Commission received from the USTR a similar list of products contained in petitions submitted to the Government of Canada.

Upon request, a copy of the list of products contained in this second supplemental list may be obtained from the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436 (202–252–1802). This list is in addition to the annotated list of HTS subheadings included in Annex I of the USTR notice of July 17, 1989, and the first supplemental list received from the USTR on August 4, 1989.

The original notice of the Commission's institution of investigation and scheduling of hearing was published in the **Federal Register** on August 9, 1989 (54 FR 32701). The availability of the Commission's annotated version of the products listed in Annex I and the first supplemental list from USTR was announced in the **Federal Register** on September 7, 1989 (54 FR 37163).

Interested parties are invited to submit written statements concerning products contained in the second supplemental list received from the USTR. Written statements should be received by the close of business on September 27, 1989. Commercial or financial information which a submitter 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 § 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 inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carl Seastrum, (202–252–1493), or any of the other persons named in the Commission's original notice of investigation.

Hearing-impaired persons can obtain information on this study by contacting our TDD terminal on (202–252–1810).

By order of the Commission.

Issued: September 18, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89–22347 Filed 9–19–89; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub. 33)]

Intrastate Rail Rate Authority—Virginia

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Interstate Commerce Commission recertifies the State of Virginia for a 5-year period.

DATE: The recertification will be effective October 20, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245 [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in

the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: September 13, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–22169 Filed 9–19–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31498]

Southern Electric Generating Co.—Petition for Exemption—Construction of a Rail Line in Shelby County, AL

[Finance Docket No. 31499]

Southern Electric Generating Co.—Petition for Exemption From Regulation Under 49 U.S.C. 10746

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission: (1) Pursuant to 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10901 the construction by the Southern Electric Generating Company (Segco) of 7.5 miles of rail line extending from CSX Transportation's main line near Westover, AL, to the Ernest C. Gaston Electric Generating Plant near Wilsonville, AL; and (2) dismisses as unnecessary Segco's petition for exemption under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 10746 (the commodities clause).

DATES: The dismissal of the petition for exemption from the requirements of 49 U.S.C. 10746, is effective on September 19, 1989. The section 10901 exemption will not be effective until completion of the Commission's environmental review and further decision. Petitions for reconsideration must be filed by October 5, 1989.

ADDRESSES: Send pleadings referring to Finance Docket No. 31498 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representatives: John R. Molm, Troutman, Sanders, Lockerman and Ashmore, 1400 Peachtree St., NE., Atlanta, GA 30303–1810, and Susan B. Bevill, Balch & Bingham, 1710 North Sixth Avenue, Birmingham, AL 35203.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245. (TDD for hearing impaired: (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

Decided: September 12, 1989.

By the Commission, Chairman Simmons, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89–22168 Filed 9–19–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub 312)]

CSX Transportation, Inc.—Abandonment—Between Florence and Timmonsville in Florence County, SC; Findings

The Commission has issued a certificate authorizing CSX Transportation, Inc. to abandon its 9.21-mile rail line between Florence (milepost AK–295.17) and Timmonsville (milepost AK–304.38) in Florence County, SC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: **"Rail Section, AB–OFA."** Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

Decided: September 14, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–22167 Filed 9–19–89; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket Nos. 28905 and 24930 (Sub-Nos. 22 and 20)]

Reopening of Proceeding; CSX Corp. and Norfolk Southern Corp.

In the matter of CSX Corporation: Control: Chessie System, Inc. and Seaboard Coast Line Industries, Inc., Norfolk Southern Corporation; Norfolk and Western Railway Company and Southern Railway Company.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of reopening and request for comments.

SUMMARY: The Commission is seeking public comment on legal issues involving the interrelationship between the Commission's approval of transactions under 49 U.S.C. 11343, the imposition of labor conditions under 49 U.S.C. 11347, the provisions of 49 U.S.C. 11341(a), and the Railway Labor Act.

DATES: Comments are due by October 10, 1989. Replies to comments are due by October 20, 1989.

ADDRESS: Send comments referring to Finance Docket No. 28905 (Sub-No. 22) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: On July 25, 1989, the United States Court of Appeals for the District of Columbia Circuit issued its opinion on review of the above-entitled proceedings in *Brotherhood of Railway Carmen* v. *Interstate Commerce Commission and United States of America*, No. 88–1724, and *American Train Dispatchers' Association* v. *Interstate Commerce Commission and United States of America*, No. 88–1694. The court reversed parts of the Commission's decisions and remanded other parts to the agency for further proceedings, if necessary.

We believe that further proceedings are necessary in order to permit the Commission to properly reassess the role of the Commission and its labor conditions in railroad consolidations. Accordingly, we are reopening these proceedings so that we may address and explain in detail our views on the issue specifically remanded; *i.e.*, whether the

provisions of 49 U.S.C. 11341(a) operate to override the provisions of the Railway Labor Act (RLA), as well as on the general issues raised in these proceedings, particularly the impact of our approval of a transactions under 49 U.S.C. 11343 *et seq.* and imposition of our standard labor conditions upon the parties' rights and remedies under the RLA and with respect to existing collective bargaining agreements.

We have also filed a limited petition seeking rehearing of the court's ruling. In the petition, we advised the court of our intention to reopen these proceedings and to promptly issue a comprehensive decision on remand addressing issues we believe the court directed us to reconsider and those left open for resolution in further proceedings. We requested that the court refrain from ruling on our petition for rehearing until we issue our decision on remand. A copy of the rehearing petition is available from the Secretary of the Commission.

In light of the importance of the legal issues involved and our intention to conduct a comprehensive examination of our authority under 49 U.S.C. 11341, 11343, and 11347, etc., and the labor conditions we have customarily imposed in approving railroad consolidations, we are seeking further comment by the parties to these proceedings as well as any other interested parties. We have described above the nature of the issues that the Commission will be exploring. Interested parties are encouraged to comment on any or all of these legal issues. We also note that there are other recent court decisions concerning labor protective conditions, including *Pittsburgh & Lake Erie R.R. Co.* v. *Railway Executives' Ass'n*, ___ S. Ct. ___ (No. 87–1589, June 21, 1989) and *Railway Executive's Ass'n* v. *ICC*, No. 88–1391 (D.C. Cir. August 29, 1989) and request the parties and other interested persons to comment on these cases to the extent that they are relevant here.

As we advised the court in our petition for rehearing, the decision on remand will be issued no later than December 15, 1989.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: August 31, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Lamboley dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89–22206 Filed 9–19–89; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances; Proposed Aggregate Production Quotas for 1990

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed aggregate production quotas for 1990.

SUMMARY: This notice proposes initial 1990 aggregate production quotas for substances in Schedules I and II of the Controlled Substances Act.

DATE: Comments or objections should be received on or before October 20, 1989.

ADDRESS: Send comments or objections to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn: DEA Federal Register Representative. (CCR).

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code, 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

The quotas are to provide adequate supplies of each substance for: (1) The estimated medical, scientific, research, and industrial needs of the United States; (2) lawful export requirements; and (3) the establishment and maintenance of reserve stocks.

In determining the below listed proposed 1990 aggregate production quotas, the Administrator considered the following factors: (1) Total actual 1988 and estimated 1989 and 1990 net disposals of each substance by all manufacturers; (2) estimates of inventories of each substance and of any substance manufactured from it and trends in accumulation of such inventories; and (3) projected demand as indicated by procurement quota applications filed pursuant to § 1303.12 of Title 21 of the Code of Federal Regulations.

Pursuant to § 1303.23(c) of Title 21 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration will in early 1990 adjust individual manufacturing quotas allocated for the year based upon 1989 year-end inventory and actual 1989 disposition data supplied by quota recipients for each basic class of Schedule I or II controlled substance.

Based upon consideration of the above factors, the Administrator of the Drug Enforcement Administration hereby proposes that aggregate production quotas for 1990 for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Proposed 1990 quotas
Schedule I:	
2,5-Dimethoxyamphetamine	15,300,000
Lysergic Acid Diethylamide	11
3,4-Methylenedioxyamphetamine	7
3,4-Methylenedioxymethamphetamine	12
Tetrahydrocannabinols	13,000
Psilocyn	2
Psilocybin	2
4-Methylaminorex	5
Methaqualone	2
N-Hydroxy-3,4-Methylenedioxyamphetamine	2
N-Ethylamphetamine	5
Schedule II:	
Alfentanil	5,000
Amobarbital	596,000
Amphetamine	279,000
Cocaine	600,000
Codeine (for sale)	53,518,000
Codeine (for conversion)	5,093,000
Desoxyephedrine	1,252,000
1,252,000 grams of levodesoxyephedrine for use in a noncontrolled, nonprescription product and 0.0 grams for methamphetamine.	
Dextropropoxyphene	79,955,000
Dihydrocodeine	435,000
Diphenoxylate	882,000
Ecgonine (for conversion)	650,000
Fentanyl	25,900
Hydrocodone	3,026,000
Hydromorphone	223,000
Levorphanol	10,700
Meperidine	10,019,000
Methadone	1,441,000
Methadone Intermediate (4-Cyano-2-dimethylamino-4,4-diphenylbutane)	1,802,000
Methamphetamine (for conversion)	1,206,000
Methylphenidate	2,262,000
Mixed Alkaloids of Opium	7,000
Morphine (for sale)	3,841,000
Morphine (for conversion)	59,243,000
Opium (tinctures, extracts, etc. expressed in terms of USP powdered opium)	1,337,000
Oxycodone (for sale)	2,427,000
Oxycodone (for conversion)	5,600
Oxymorphone	2,500
Pentobarbital	11,296,000
Phencyclidine	25
Phenylacetone (for conversion)	684,000

Basic class	Proposed 1990 quotas
1-Piperidinocyclohexanecarbonitrile (for conversion)	40
Secobarbital	583,000
Sufentanil	400
Thebaine	6,125,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on one of the above-mentioned substances without filing comments or objections regarding the others. Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attn: DEA Federal Representative (CCR) and must be received by (30 days from date of publication). If a person believes that one or more issues warrant a hearing, a statement to that effect with a summary of reasons for such belief should be submitted.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall cause such hearing to be convened pursuant to the provisions of Title 21 of the Code of Federal Regulations, § 1303.31(a).

Pursuant to Section (3)(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

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

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning of and intent of the Regulatory Flexibility Act, 5 U.S. Code, 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Dated: August 21, 1989.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 89-22114 Filed 9-19-89; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 10, 1989, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Rd. 2, Mayaguez, Puerto Rico 00708, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene, bulk (non-dosage forms) (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 20, 1989.

Dated: September 8, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-22115 Filed 9-19-89; 8:45am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefits Plans; Work Group Meeting National Retirement Income Policy

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on National Retirement Income Policy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 2:00 p.m., Tuesday, September 26, 1989, in Suite N-3437, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This nine member work group was formed by the Advisory Council to study issues relating to a National Retirement Income Policy for employee welfare plans covered by ERISA.

The purpose of the September 26 meeting is to:

1. Discuss methods and means of obtaining information, in an organized format, from employee representatives, employer representatives and other interested individuals.

2. Entertain comments from the general public.

The working group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives or organizations, wishing to address the working group should submit written requests on or before September 25, 1989 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 25, 1989.

Signed at Washington, DC, this 14th day of September, 1989.

Ann L. Combs,

Deputy Assistant Secretary for Policy, Pension and Welfare Benefits Administration.

[FR Doc. 89-22111 Filed 9-19-89; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; Systems of Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Revised System of Records.

SUMMARY: NARA is proposing to alter the system NARA-1, Researcher Application Files by adding an electronic database index. The specific changes to this notice are set forth in the Supplementary Information section.

DATES: Written comments on the proposed altered system NARA-1 should be received by October 20, 1989. All other changs to the systems will be

effective on October 20, 1989. NARA filed an Altered System Report with the Congress and the Office of Management and Budget on September 13, 1989. The proposed altered system shall be effective without further notice on November 13, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Comments on the proposed altered system should be addressed to John A. constance, Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John A. Constance or Laurence Patlen, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408 Telephone (202) 523–3214 or (FTS) 523–3214.

SUPPLEMENTARY INFORMATION: The National Archives and Records Administration (NARA) gives notice of its proposal to alter the system of records NARA–1, Researcher Application Files. As required by the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular A–130, an Altered System Report was submitted on September 13, 1989 to the Congress and OMB.

The system is to be amended by adding an electronic database which will serve as an index to the files, provide NARA with statistical data relating to researcher use at the National Archives, and facilitate the preparation of mailing lists. This information will be used by NARA to compile statistical reports and to study esearch use of NARA facilities. This modification constitutes a change in the computer environment. Accordingly, NARA is modifying the categories of records, routine uses, storage, retrievability, safeguards, and retention and disposal sections of the NARA–1 notice. The routine use statement is expanded to describe intra-agency uses of the electronic database. No new routine use disclosures outside of NARA are proposed. Safeguards are being established to counteract any increase in the potential for unauthorized access to the system.

Minor administrative changes are being made to NARA–1: to amend the system location, to simplify the storage description and include storage on floppy disk, and to add a system manager for the electronic database.

The amended sections of the system notice are set forth below NARA previously published the system and appendixes containing the general routine uses and addresses of locations applicable to all NARA systems in the Federal Register of May 9, 1989 (54 FR 19970).

NARA 1

System name:

Researcher Application Files.

The following sections are to be changed in the notice. All other sections remain unchanged:

System location:

This system of records is located in the National Archives Building, the Regional Archives, and except for the electronic database, the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

Categories of records in the system:

Applications to use records including name, address, telephone number, occupation, research topic, educational level, and field of interest. At the National Archives Building and the Regional Archives, also an electronic database containing the information from applications.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The records are used by employees of NARA who have a need for the records in the performance of their duties to identify and record the individuals who use records in the National Archives and other repositories listed above, to provide a means of contacting the individual if additional information of research interest to him or her is found, and to mail notices of events and programs of interest to users of the records in the National Archives. Information in the electronic database is used by NARA staff as a finding aid, to compile statistical reports regarding researcher use of records at the National Archives, and to facilitate the preparation of mailing lists. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

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

Storage:

Paper and floppy disks.

Retrievability.

Filed alphabetically at each location by name of individual, except that at the National Archives Building and the Regional Archives records may be filed numerically by researcher card number and accessed through the electronic database.

Safeguard:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. The database maintained by the Office of the National Archives operates on a non-networked computer accessible only to NARA employees via passwords on terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

Retention and disposal:

Paper records, including (if necessary) a printout indexed by researcher name, are cut off annually, held one year, and retired. They are destroyed when 25 years old. Electronically stored records are cut off when two years old, then maintained on a backup disk and delected one year later. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

System manager(s) and address:

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of the Presidential libraries, and the directors of the Regional Archives. The system manager for the electronic database is the Assistant Archivist for the National Archives. The addresses for these locations are listed in the appendix following the NARA Notices.

Dated: September 13, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89–22122 Filed 9–19–89; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Advisory Committee on International Exhibitions

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held on September 27, 1989, from 9:30 a.m.–3:00 p.m. at Arts International, Institute of International Education, 807 United Nations Plaza, New York, NY.

This meeting will be open to the public on a space available basis. The topics for discussion will include the future role of the committee and guidelines.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

September 14,1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–22123 Filed 9–19–89; 8:45 am]

BILLING CODE 7537–01–M

Opera—Musical Theater Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Opera—Musical Theater Advisory Panel (Advancement Section) to the National Council on the Arts will be held on October 18, 1989, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: September 12, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89–22119 Filed 9–19–89; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Availability of NUREG–1347, "NRC Staff Site Characterization Analysis of the Department of Energy's Site Characterization Plan, Yucca Mountain Site, Nevada"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability; solicitation of comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of NUREGA–1347, "NRC Staff Site Characterization Analysis of the Department of Energy's Site Characterization Plan, Yucca Mountain Site, Nevada" and is soliciting comments on the Site Characterization Analysis.

DATE: The comment period expires December 19, 1989.

ADDRESSES: 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. Comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of comments received may be examined at the NRC Public Document Room (PDR), 2120 L Street, (Lower Level), NW., Washington, DC, and the Local Public Document Rooms (LPDRs) located at the James R. Dickinson Library, Special Collections Department, University of Nevada-Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada 89154, and University Library, Government Publications Department, University of Nevada-Reno, Reno, Nevada 89557. Copies of NUREG–1347 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal, Springfield, VA 22161. Copies of NUREG–1347 are available for public inspection and/or copying at the NRC PDR and the LPDRs listed above.

FOR FURTHER INFORMATION CONTACT: Mr. John Linehan, Director, Repository Licensing and Quality Assurance Project Directorate, Division of High-Level Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301/492–3387.

SUPPLEMENTARY INFORMATION: On January 30, 1989 the NRC announced in the **Federal Register** that it had received for review and comment the Department of Energy's (DOE) Site Characterization Plan (SCP) for the Yucca Mountain, Nevada candidate site for a permanent geologic repository for high-level radioactive waste (HLW). The NRC indicated that its review would culminate in issuance to DOE of a Site Characterization Analysis (SCA) with respect to the SCP and that at the time of its issuance a notice of availability of the SCA and request for public comment would be published in the **Federal Register**. Those are the purposes of the present notice.

This SCA is issued in fulfillment of the requirements of the Nuclear Waste Policy Act (NWPA) and 10 CFR 60.18 for NRC to review and comment upon DOE's SCP for the Yucca Mountain site. DOE's SCP explains how DOE plans to obtain the information necessary to determine the suitability of the Yucca Mountain site for a repository.

The SCA contains NRC's specific objections to the SCP and major comments and recommendations on the various parts of DOE's program (Section 2), summaries of the NRC staff's concerns for each specific program (Section 3), and NRC staff point papers which set forth in greater detail particular staff concerns regarding DOE's program (Section 4). Appendix A presents NRC staff evaluations of those NRC staff Consultation Draft SCP concerns that NRC considers resolved on the basis of the SCP.

Dated at Rockville, Maryland, this 11th day of September, 1989.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 89–22182 Filed 9–19–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–341]

Detroit Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 42 to Facility Operating License No. NPF–43 issued to Detroit Edison Company (the licensee), which revised the Technical Specifications for operations of the Fermi–2, located in Monroe County, Michigan.

The amendment is effective as of the date of issuance.

The amendment would revise the Technical Specifications (TS) for the operation of Fermi–2 during Cycle 2 with a reload of General Electric (GE)

manufactured fuel assemblies and GE analyses and methodologies. TS changes where also proposed to allow operation of Fermi–2 with an Extended Load Line Limit Region (ELLLR).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amendment (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notices of Consideration of Issuance of Amendment and Opportunity for Heating in connection with this action were published in the **Federal Register** on July 11, 1989 (54 FR 29116 and 54 FR 29122). No request for a hearing or petition for leave to intervene was filed following these notices.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the applications for amendments dated April 3 and May 31, 1989 as supplemented by letter dated August 23, 1989, (2) Amendment No. 42 to License No. NPF–43, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Local Public Document Room. A copy of items (2), (3) and 4 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V & Special Projects.

Dated at Rockville, Maryland this 13th day of September 1989.

For the Nuclear Regulatory Commission.

John F. Stang,

Project Management, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–22183 Filed 9–19–89; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from August 25, 1989 through September 8, 1989. The last biweekly notice was published on September 6, 1989 (54 FR 37040).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 20, 1989 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in

the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: October 26, 1988, as supplemented March 30, 1989, June 13, 1989, and August 4, 1989.

Description of amendment request: The proposed amendments revise Technical Specifications (TS) Section 3/4 4.6, "Pressure/Temperature Limits", to modify the current TS wording, the Limiting Conditions for Operation, and Pressure/Temperature Limit Curves to make them consistent with the guidance contained in Generic Letter 88-11, "NRC Position on Radiation Embrittlement Of Reactor Vessel Materials And Its Impact On Plant Operations," dated July 12, 1988. Repagination of TS Sections 3/4.4.6, 3/4.4.7, and 3/4.4.8, is included to accommodate the three additional pages resulting from this proposed amendment. Bases pages will also be changed accordingly.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

Currently TS Section 3.4.6.1 specifies reactor vessel shell temperature and reactor vessel pressure. The proposed change revises this wording to specify reactor coolant system temperature and pressure. The licensee provided a no significant hazards consideration analysis to support a no significant hazards consideration for this change as follows:

The change does not involve a significant hazards considerations for the following reasons:

1. Reactor coolant system temperature and pressure are currently utilized to comply with the requirements of TS Section 3/4.4.6 and have been evaluated to confirm that they are representative of the vessel shell temperature and vessel pressure. The proposed change is being requested to clarify the specification to preclude potential confusion. The reactor coolant system temperature, measured at the recirculation pump suction, is actually lower than that of the vessel shell during various phases of operation (i.e., reactor startup, operation, and immediately following reactor shutdown) because of the effects of gamma heating of the reactor vessel. Therefore, use of recirculation pump suction temperature is more conservative during these operational phases. Since the coolant system data is representative of the vessel shell temperature, the probability of a pressure boundary failure will remain the same and will provide the same limitations on the consequences of a pressure boundary failure. Based on this reasoning, CP&L has determined that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the postulated accident scenario and accident initiators remain the

same. Moreover, the source of the data used to satisfy the requirements of TS Section 3/4.4.6 is representative of the reactor vessel shell temperature. The change in wording will have no impact on reactor coolant system operation and will not create the possibility of any new accident mode.

3. Revision of the wording to reflect the actual data source will clarify the specification. Since the reactor coolant system temperature (taken at the reactor recirculation pump suction) is representative of, and at times slightly more conservative than the reactor vessel shell temperature, the proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change replaces the present temperature/pressure limit curves contained in Figures 3.4.6.1-1 through 3.4.6.1-3 with five new curves. The new curves cover the same operational conditions as the previous curves (i.e., non-nuclear heatup, low power physics tests, cooldown following a shutdown, criticality and inservice hydrostatic tests) along with two additional curves for hydrostatic and leak tests. This results in three hydrostatic and leak test curves which cover testing operations at less than or equal to 8, 10, and 12 effective full power years (EFPY). The licensee's analyses of no significant hazards follows:

The change does not involve a significant hazards consideration for the following reasons:

1. The revised temperature/pressure limit curves are based on the most current regulatory requirements along with actual neutron flux/fluence data. These curves provide the necessary safety margin to assure structural integrity of the reactor coolant pressure boundary. This safety margin is designed to preclude the probability of a pressure boundary failure. The consequences of a pressure boundary failure are not impacted by the proposed change. Since these curves are based on the most current regulatory guidance and fluence data, CP&L has determined that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The accidents analyzed in Chapter 15 of the Updated FSAR are not affected by the revised temperature/pressure limit curves. These curves are designed to provide fracture protection for the reactor coolant pressure boundary and do not create any new accident modes. Accident modes for the reactor coolant pressure boundary, due to nonductile failure, are well understood within the industry. The temperature/pressure limit curves merely provide the protection mechanisms to preclude such a failure. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Temperature/pressure limit curves are designed to provide a specific margin of safety. This margin is required to be at least as great as that specified in the ASME Boiler and Pressure Vessel Code, Section III, Appendix G, and Appendix G to 10CFR50. The revised curves are based on the latest NRC guidelines (Regulatory Guide 1.99, Rev. 2), along with the actual neutron flux/fluence data for the Brunswick Units. Thus, the revised curves provide a greater confidence level than the present curves. Based on this reasoning CP&L has determined that the proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change adds additional limiting conditions for operation to TS Section 3.4.6.1 for hydrostatic or leak testing and for the reactor vessel flange and head flange temperatures with the reactor vessel head bolting studs under tension. The licensee provided the following no significant hazards analysis.

The change does not involve a significant hazards consideration for the following reasons:

1. The proposed limiting conditions for operation provide added protection against the probability of a reactor coolant pressure boundary failure during hydrostatic and leak testing and during conditions when the vessel head bolting studs are under tension. The consequences of a reactor coolant pressure boundary failure are not affected by the additional operational constraints. Based on this reasoning, CP&L has determined that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The accidents analyzed in Chapter 15 of the Updated FSAR are not affected by the additional limiting conditions for operation. The additional operational constraints have been added to comply with the current regulation and provide added reactor coolant pressure boundary protection. As stated previously, accident modes for reactor coolant pressure boundary due to nonductile failure are well understood within the industry. The revised limiting conditions for operation merely provide an additional protection mechanism without creating any new accident modes. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The additional limiting conditions for operation were added to assure adequate safety margins during hydrostatic and leak testing, and to place limits on the reactor vessel flange and head flange temperatures when the head bolting studs are under tension. These additional operational constraints provide added safety margin relative to the requirements of 10CFR50, Appendix G. Based on this reasoning, CP&L has determined that the proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change repaginates TS Section 3/4.4.6, Section 3/4.4.7, and Section 3/4.4.8 to accommodate three additional pages. The licensee provided the following no significant hazards analysis.

The change does not involve a significant hazards consideration for the following reasons:

1. The proposed change is an administrative change to the Technical Specifications to prevent the need for adding subpages. Repagination is necessary to accommodate additional text and figures, and has no impact on the specification. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change is purely administrative. It will provide numerical consistency of the pages within the specified TS Sections without creating any change to the technical content of the specifications. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change is to an administrative change. There will be no impact on the specification as a result of this change. The change will merely provide numerical consistency of the pages in the specified sections, and will eliminate the need for using subpages. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: July 28, 1989

Description of amendment request: The proposed amendment will remove cycle specific parameters from the Technical Specifications (TS) as recommended in Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications." In addition, in TS Section 3.1.3.5, fully withdrawn position has been redefined as 317 steps; in TS Section 3.4.1.4.1 some flexibility regarding RHR operation during heatup has been added because

of problems during the last outage; and TS Section 3.4.9.1 has been clarified to allow the low temperature overpressure protection system to be isolated during performance of RCS hydrostatic and leak testing.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. In accordance with 10 CFR 50.92 Connecticut Yankee Atomic Power Company has reviewed the proposed Technical Specification and concluded that they do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

I. Generic Letter 88-16 Related Changes

There are no design basis accidents impacted by the format change to relocate the cycle-specific parameter limits from the technical specifications to the Technical Report Supporting Cycle Operation (TRSCO). The Cycle 16 parameter limits are provided in the Core Operating Limits Section of the TRSCO. The Cycle 16 reload has affected some of the core physics parameters. These parameters were input to the design basis accident and transient analysis. The design basis LOCA and non-LOCA transients were evaluated to determine what impact resulted from the Cycle 16 reload core. As discussed in the TRSCO, there is little if any impact on the consequences of any design basis transients. In addition, neither the proposed technical specification changes nor the Cycle 16 reload affect the probability of occurrence of any design basis accidents. Therefore, these proposed changes are concluded to not result in a significant increase in the probability or consequences of any accidents previously analyzed.

II. Axial Offset/LHGR/DNB Parameters

These proposed changes are clarifications of existing surveillance requirements. These changes have no impact on the operation of the Haddam Neck Plant. The axial offset surveillance cannot be accurately performed until a minimum of three days operation at 80% and the RCS flow rate surveillance cannot be accurately performed until achieving 100% power. Therefore, the proposed changes ensure that proper and accurate surveillance tests are performed. The linear heat generation rate (LHGR) surveillance as proposed ensures that the LHGR will not exceed the initial conditions assumed for the LOCA analyses prior to performing the axial offset surveillance. As such, there is no impact on the probability or consequences of any accident previously evaluated.

III. Control Rod Insertion Limits

Changing the "all rods out" position from 320 steps to 317 steps does not impact the probability or consequences of any design basis accidents. The 317 step position is based on the interface between the fuel assemblies and the control rods. All the physical models used in the cycle design and determination of safety analysis input parameters assume that the "all rods out" position is 317 steps. No safety systems are affected by this change nor are any design basis events affected. This proposed change more precisely reflects the physical configuration in the core.

IV. RCS Heatup/RCS Hydrostatic and Leak Testing

The proposed changes allow the operating RHR pump to be deenergized during RCS heatup and allows the LTOPS to be isolated during the performance of RCS hydrostatic or leak testing. Clarifications to the testing, heatup, and cooldown curves are also included.

The proposed technical specification changes do not affect the probability of failure of the RHR or LTOP systems. The LTOPS is not required during the performance of a hydrostatic and/or leak test provided they are performed above 245° F and 235° F respectively, and a heatup rate less than/or equal to 10 F/hour is maintained for one hour prior to and during the test.

The RHR system would purposely be taken out of service during an RCS heatup in MODE 5 with low decay heat by deenergizing the operating RHR pump. Shutting off the pump does not affect the probability of failure of that pump, nor does it affect the probability of failure of the remaining operable pump.

Overall, these proposed changes do not affect the probability or consequences of any design basis accidents nor do the changes increase the probability of a failure of a safety system or degrade the performance of a safety system below that assumed in the design basis analysis.

2. Create the possibility of a new or different kind of accident from any previously evaluated

I. Generic Letter 88-16 Related Changes

There are no failure modes associated with the proposed technical specifications changes on the Cycle 16 reload. A review of the affected on-LOCA and LOCA transients has demonstrated that the plant response has not been modified to the point where a new accident has been identified. Accordingly, these changes are concluded to not present the possibility for a new unanalyzed accident.

II. Axial Offset/LGHR/DNB Parameters

These changes provide clarifications and a correction of existing technical specifications to ensure that the surveillance requirements are effective and perform their intended function. There is no impact on plant operation or response. Therefore, it is concluded that these proposed changes do not present the possibility for a new unanalyzed accident.

III. Control Rod Insertion Limits

The proposed change redefines the "all rods out" position to more precisely reflect the physical relationship between the fuel and control rods. The plant response is not modified by this proposed change nor are there any new failure modes presented. The proposed change does not impact the probability of an accident to the point where it should be considered within the design basis.

IV. RCS Heatup/RCS Hydrostatic and Leak Testing

The plant response due to the proposed changes has not been modified to the point where it can be considered that a new accident has been defined. The hydrostatic and leak tests will continue to be performed above 245° F and 235° F respectively. Taking the RHR pump out of service in MODE 5 with low decay heat will allow a normal RCS heatup.

The failure mode of a low temperature, overpressurization event occurring below 315° F while the LTOPS is isolated, has already been analyzed. Limiting the heatup rate to less than or equal to 10 degrees F while the LTOPS is out of service addresses this potential. Therefore, these proposed changes do not create the potential for a new unanalyzed accident. There are no failure modes associated with taking the operating RHR pump out of service during an RCS heatup since the performance of the RHR system is not affected.

3. Involve a significant reduction in a margin of safety

I. Generic Letter 88-16 Related Changes

The proposed changes to the technical specifications and the Cycle 16 reload have been evaluated for their impact on non-LOCA and LOCA design basis events. Since as previously stated there

is no impact on the consequences of the design basis events, therefore, it follows that there is no impact on the protective boundaries. There are no failure modes associated with the proposed changes or the Cycle 16 reload. Therefore, there is no impact on the margin of safety.

II. Axial Offset/LGHR/DNB Parameters

These proposed changes do not involve any failure modes or changes in plant operation or transient response. These changes are proposed to better ensure that operating limits are maintained. Therefore, there is no impact on the margin of safety.

III. Control Rod Insertion Limits

This proposed change has no impact on the protective boundaries of the plant. There are no failure modes associated with this change and there is no affect on the safety limits. This proposed change simply reflects the physical configuration in the core more precisely.

IV. RCS Heatup/RCS Hydrostatic and Leak Testing

The proposed changes do not impact the protective boundaries. Performance of a hydrostatic and/or leak test above 245° F or 235° F respectively while maintaining a heatup rate less than 10° F/hour one hour prior to and during the test assures that the margin of safety required by 10 CFR 50 Appendix G is maintained. Deenergizing the operating RHR pump in MODE 5 with low decay heat will result in a controlled RCS heatup without affecting the protective boundaries.

The NRC staff has reviewed this analysis and based on this review, it appears that the three standards are satisfied. Therefore, the NRC staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: August 2, 1989

Description of amendment request: The proposed Technical Specification (TS) changes TS 3/4.5.1, "Emergency Core Cooling System - ECCS Subsystem - Tavg greater than or equal to 350° F;" to reflect the component configurations following the 1989 refueling outage modifications to the ECCS to resolve single failure concerns. In addition TS Section 3/4.5.2, "Emergency Core Cooling System - ECCS Subsystem - Tavg less than 350° F," and TS Section 3/4.5.3, "Emergency Core Cooling System - pH Control System" have been renumbered to be consistent with Westinghouse Standard Technical Specification (WSTS) format.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. In accordance with 10 CFR 50.92 Connecticut Yankee Atomic Power Company has reviewed the proposed Technical Specifications and concluded that they do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The modifications to the ECCS will provide for redundant isolation of the HPSI miniflow during sump recirculation and will resolve single failure concerns in the chemical and volume control system (CVCS), RHR, HPSI, and LPSI systems. As such, these modifications will not adversely impact the consequences of design basis accidents because they do not change the ECCS delivery rates. The proposed changes to the ECCS surveillance requirements will provide added assurance that the ECCS modification will operate reliably. The physical improvements to ECCS will improve reliability and redundancy of the system, and as a result, will not adversely impact the probability or consequences of previously analyzed accidents.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to the technical specifications ensure that the plant response is within the design basis. No new failure modes are introduced by these proposed technical specification requirements. The proposed changes improve ECCS reliability and redundancy.

3. Involve a significant reduction in a margin of safety

The physical changes made to the plant that are reflected in these proposed technical specifications provide an enhancement to the protective boundaries by increasing redundancy and reliability. The surveillance requirements imposed by this proposed change also assure the reliability of these components. The proposed changes to the technical specifications do not impact the safety limits for the protective boundaries. Therefore, the proposed change does not result in a reduction of any margin of safety.

The NRC staff has reviewed this analysis and based on this review, it appears that the three standards are satisfied. Therefore, the NRC staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: June 12, 1989, as clarified July 11, 1989

Brief description of amendment: The proposed amendment would: (1) change the allowable out-of-service time in Technical Specification (TS) 3.3.B.2.c for inoperable containment spray system valves from 24 hours to 72 hours, (2) add TS 3.3.B.2.d for the spray additive tank and its associated piping, valves and eductors, and (3) add TS 3.7.B.5 permitting one of the battery chargers associated with station batteries 21, 22, 23 and 24 to be inoperable for up to 24 hours provided certain conditions are satisfied.

Basis for proposed no significant hazards considerations determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

Containment Spray Valves

The proposed change to TS 3.3.B.2.c would change the containment spray system valves' allowable out-of-service time from 24 hours to 72 hours. License Amendment No. 132 (issued June 29, 1988) changed the allowable out-of-service time for the containment spray pumps from 24 hours to 72 hours. Due to

an administrative error during the preparation of License Amendment No. 132, the allowable out-of-service time from these valves was not changed at that time. Therefore, the proposed change would make the allowable out-of-service time for these valves consistent with the allowable out-of-service time for the containment spray valves. Since the proposed change is an administrative change to the technical specifications to achieve consistency throughout the technical specifications (72 hour allowable out-of-service time for all equipment in the containment spray system), the proposed change meets Example (1) of the Commission's Examples of Amendments That Are Considered Not Likely To Involve Significant Hazards Considerations (51 FR 7751, dated March 6, 1986) and therefore the staff proposes that this proposed change will not involve a Significant Hazards Consideration.

Spray Additive Tank

The proposed addition of TS 3.3.B.2.d would permit reactor operation to continue for up to 72 hours with the spray additive tank and its associated piping, valves and eductors inoperable provided both containment spray pumps and the five fan cooler units are operable. In the absence of this proposed addition, TS 3.0.1 would be applied. TS 3.0.1 would require the unit to be in hot shutdown within 7 hours and in cold shutdown within the following 30 hours if the spray additive tank or its associated equipment are inoperable.

The licensee provided the following analysis of this proposed change and determined that this proposed change would not involve a Significant Hazards Consideration because operation of Indian Point Unit No 2 in accordance with this proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Since the Spray Additive Tank and its associated piping, valves and eductors are a passive system with the exception of its two isolation valves which are air operated, fail open, and installed in parallel; since these components deal only with accident mitigation; and since these components do not provide any sort of automatic initiation; there are no credible equipment failures that would initiate an accident. In addition, since the entire assembly is located outside containment, there are no credible failures attributable to this equipment that could directly affect the Reactor Coolant System. Thus, unavailability of the Spray Additive Tank would not significantly increase the probability of an accident previously evaluated.

With respect to a significant increase in the consequences of an accident previously evaluated, it is important to note that the accident mitigation capabilities of the Spray Additive Tank are the removal of iodine from the containment atmosphere and the pH balancing of the recirculated water to prevent corrosion in a post-LOCA condition. In addressing the iodine removal capability of the Spray Additive Tank, a plant-specific PRA evaluation was conducted to determine the effects of a 72 hour LCO. The results of this evaluation determined that a 72 hour LCO showed an inconsequential increase in the public health risk. In addition, Section 1.1 of WCAP-11611 ("Methodology for Elimination of the Containment Spray Additive", March 1988) states:

"Analyses performed by Westinghouse, utilizing current NRC methodology (SRP 6.5.2, Revision 1) and combined with knowledge gained from many studies on the behavior of iodine in the post-LOCA environment, have demonstrated the relatively minor role of the spray additive in meeting the dose guidelines of 10 CFR 100. The proposed Revision 2 to SRP 6.5.2 goes even further in demonstrating this relatively minor role of the spray additive by eliminating its consideration."

As for pH balancing, it is also possible to add NaOH to the Boric Acid Batching Tank and then inject the solution via the normal Chemical and Volume Control System charging paths into the Reactor Coolant System. The solution would flow out the break that caused the LOCA, mix with water in the bottom of the containment and provide the necessary pH balance. This additional injection pathway methodology is already contained in our Emergency Operating Procedures (ES-1.3, "Transfer to Cold Leg Recirculation") as the alternate method for assuring long term pH control. Finally, the proposed LCO has the same time limit as the Standard Technical Specifications' LCO. Thus, it is concluded that there is no significant increase in the consequences of an accident previously evaluated.

Therefore, this proposed change to Technical Specification 3.3.B.2 does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change provides an LCO for the Spray Additive Tank that has the same time limit as the Standard Technical Specification' LCO. No physical changes to the Spray Additive Tank or its associated components are required with respect to this proposed LCO. Therefore, the proposed change to Technical Specification 3.3.B.2 does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The accident mitigation capabilities of the Spray Additive Tank are the removal of iodine from the containment atmosphere and the pH balancing of the recirculated water to prevent corrosion in a post-LOCA condition. As discussed above, a plant-specific PRA evaluation determined that a 72 hour LCO showed an inconsequential increase in the public health risk. Additionally, Section 1.1 of WCAP-11611 ("Methodology for Elimination of the Containment Spray Additive", March 1988) concluded that the role of the spray additive in meeting the dose guidelines of 10CFR100 is relatively minor and that the proposed Revision 2 to SRP 6.5.2 goes even further in demonstrating this relatively minor role of the spray additive by eliminating its consideration.

As for pH balancing, alternative proceduralized paths exist to add NaOH to the Boric Acid Batching Tank and then inject the solution via the normal Chemical and Volume Control System charging paths into the Reactor Coolant System. The solution would flow out the break that caused the LOCA, mix with water in the bottom of the containment and provide the necessary pH balance. This injection path is not affected by the proposed change.

Therefore, the proposed change to Technical Specification 3.3.B.2 does not involve a significant reduction in a margin of safety.

Based on the above discussion, the licensee determined that the proposed change to TS 3.3.B.2.d does not involve a Significant Hazards Consideration. The staff agrees with the licensee's analysis and proposes that this proposed change will not involve a Significant Hazards Consideration.

Battery Chargers

The proposed addition of TS 3.7.B.5 would permit reactor operation to continue for up to 24 hours with one battery charger inoperable provided the other three battery chargers and their associated batteries are operable and the affected battery is determined operable by performance of TS 4.6.C.1 within 1 hour and every 8 hours thereafter. In the absence of this proposed addition, TS 3.0.1 would be applied. TS 3.0.1 would require the unit to be in hot shutdown within 7 hours and in cold shutdown within the following 30 hours if one battery charger is inoperable.

The licensee provided the following analysis of this proposed change and determined that this proposed change would not involve a Significant Hazards Consideration because operation of Indian Point Unit No. 2 in accordance with this proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Upon loss of the Battery Charger, the associated Station Battery would supply power to the affected loads. Thus, a time period exists when the Battery Charger can be out of service and there would be no effect on plant operation nor any impact on the plant design basis because unaffected safety systems are still operable and the Battery Charger is not necessary to mitigate design basis accidents. Upon entering the proposed LCO the operators would be aware what loads are carried by the affected Station Battery and through the use of existing procedures inappropriate operator action due

to degraded voltage on the affected bus would be precluded. Thus, unavailability of the Battery Charger would not significantly increase the probability of an accident previously evaluated.

With respect to a significant increase in the consequences of an accident previously evaluated, the proposed LCO requires the other three Station Batteries be operable and that the surveillance under Technical Specification 4.6.C.1 be implemented frequently on the affected Station Battery to assure its continued operability. By more frequent monitoring of critical battery parameters, timely actions can be taken to assure Station Battery longevity. Under Technical Specification 3.7.B there is an existing LCO which allows one Station Battery to be inoperable for 24 hours providing all four Battery Chargers and the other three Station Batteries are operable. Under both the existing LCO for the Station batteries and the proposed LCO for the Battery Chargers, the single active failure of a safety-related component, coincident with a Loss-Of-Offsite-Power (LOOP) would still be the most limiting accident condition. It has been determined that the existing LCO on the Station Batteries bounds the proposed LCO on the Battery Chargers. Therefore, the consequences of an accident previously evaluated remained unchanged.

Therefore, this proposed change to Technical Specification 3.7.B does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed LCO requires the other three Station Batteries be operable and that the surveillance under Technical Specification 4.6.C.1 be implemented frequently on the affected Station Battery to assure its continued operability. By more frequent monitoring of critical battery parameters, timely actions can be taken to assure Station Battery longevity. Under Technical Specification 3.7.B there is an existing LCO which allows one Station Battery to be inoperable for 24 hours providing all four Battery Chargers and the other three Station Batteries are operable. The existing LCO on the Station Batteries bounds the proposed LCO on the Battery Chargers because equipment that could lose power during a Loss-Of-Offsite-Power coincident with a postulated accident under the existing Station Battery LCO, would retain power under the proposed Battery Charger LCO.

Therefore, the proposed change to Technical Specification 3.7.B does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed LCO allows a Battery Charger to be inoperable, but also requires the other three Station Batteries be operable and that the surveillance under Technical Specification 4.6.C.1 be implemented frequently on the affected Station Battery to assure its continued operability. Under Technical Specification 3.7.B there is an existing LCO which allows one Station Battery to be inoperable for 24 hours providing all four Battery Chargers and the other three Station Batteries are operable. Although the Battery Charger will now be allowed a limited out of service time of 24 hours maximum, this condition is bounded by the already allowed LCO on the Station Batteries because equipment that could lose power during a Loss-Of-Offsite-Power coincident with a postulated accident under the existing Station Battery LCO, would retain power under the proposed Battery Charger LCO.

Therefore, the proposed change to Technical Specification 3.7.B does not involve a significant reduction in a margin of safety.

Based on the above discussion, the licensee determined that the proposed addition of TS 3.7.B.5 does not involve a Significant Hazards Consideration. The staff agrees with the licensee's analysis and proposes that this proposed change will not involve a Significant Hazards Consideration.

Local Public Document Room location: White Plains Public Library, 100 Martime Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra

National Aeronautics and Space Administration (NASA), Plum Brook Station Docket No. 50-30, Plum Brook Reactor

Date of amendment request: February 27, 1989 and June 22, 1989

Description of amendment request: The amendment would change portions of the licensee's organizational structure. The facility currently has a possession only license and is in protected safe storage awaiting decommissioning. All special nuclear material has been removed from the site.

The Aeropropulsion Facilities and Experiments Division would replace the Health Safety & Security Division as the division responsible to provide resources to maintain the Plum Brook Reactor in protected safe storage. As a result of this change, the Radiation Safety Officer would report to the Director of the Aeronautics Directorate in matters concerning radiation safety at the facility.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the organizational changes will not affect the protected safe storage mode the facility is in. Furthermore, the Technical Specification continue to require that NASA provides whatever resources are required to maintain the facility in a condition that poses no hazard to the general public or to the environment.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the change only involves portions of the organizational structure; and does not physically alter any system or components, or the way the reactor is maintained in protected safe storage.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because there will be no change in the protected safe storage status of the facility or the resources committed to maintaining the facility in protected safe storage.

The staff has concluded that the requested changes meet the standards for no significant hazards consideration and, therefore, has made a proposed determination that the requested license amendment does not involve a significant hazards consideration.

Local Public Document Room location: N/A

Attorney for licensee: N/A

NRC Project Director: Seymour H. Weiss

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: August 1, 1989 (Licensee letters B13289, B13297, B13298 and B13303)

Description of amendment request: The proposed change to the Technical Specifications reflects the changes requested by the NRC in Generic Letter 83-26 for containment water level, containment high range radiation monitors, containment pressure monitors, noble gas effluent monitors, post-accident sampling, and sampling and analysis of plant effluents. In

addition, Specification 3.7.A.3 will be changed to provide clarification of the action to be taken if primary containment integrity is not maintained and Specification 3.7.A.6 will be changed to clarify the limiting condition for operation of Section 3.7.A

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the proposed changes, in accordance with 10 CFR 50.92, and has concluded and the NRC agrees, that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of an accident previously evaluated.

The added and/or amended LCOs and Surveillance Requirements regarding Suppression Chamber Water Level ensure the availability of these systems and will have no impact on the initiation or consequences of an accident previously evaluated. These changes ensure that additional information is available to the operator for proper accident assessment. Therefore, the aforementioned changes do not increase the probability or consequences of a design basis accident nor do they affect the performance or failure probability of any safety system. The changes described above have no effect on the initiation, probability, or consequences of any previously evaluated accident scenario.

The added and/or amended LCOs and Surveillance Requirements regarding containment high range radiation monitors and containment pressure monitors ensure the availability of these monitoring systems and will have no impact on the initiation or consequences of an accident previously evaluated. These changes ensure that additional information is available to the operator for proper accident assessment. Therefore, the aforementioned changes do not increase the probability or consequences of a design basis accident nor do they affect the performance or failure probability of any safety system. The changes to the Technical Specifications 3.7.A.3 and 3.7.A.6 described above are administrative in nature and, as such, have no effect on the initiation, probability, or consequences of any previously evaluated accident scenario.

The added and/or amended LCOs and Surveillance Requirements regarding noble gas effluent monitors ensure the availability of these systems and will have no impact on the initiation or consequences of an accident previously evaluated. The changes ensure that additional information is available to the operator for proper accident assessment. Therefore, the aforementioned changes do not increase the probability or consequences of a design basis accident nor do they affect the performance or failure probability of any safety system. The changes to Technical Specifications described above have no effect on the initiation, probability, or consequences of any previously evaluated accident scenario.

The added and/or amended LOCs and Surveillance Requirements regarding sampling ensure the availability of the existing post-accident sampling and iodine monitoring systems and will have no impact on the initiation or consequences of an accident previously evaluated.

These changes ensure that additional information is available to the operator for proper accident assessment. Therefore, the aforementioned changes do not increase the probability or consequences of a design basis accident nor do they affect the performance or failure probability of any safety system. The changes to the Technical Specifications described above have no effect on the initiation, probability, or consequences of any previously evaluated accident scenario.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The Generic Letter 83-36 changes do not result in physical modification of the plant response or operator response to an accident, and no new failure modes are associated with these changes. Instrument drift factors were reviewed to ensure the instrumentation does not provide erroneous or conflicting information to the operator in any given situation. In addition, given the inherent characteristics of passive monitoring equipment, it has been determined that no new or different kind of accident has been created. The changes to Specifications 3.7.A.3 and 3.7.A.6 are for clarification purposes and will not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The Generic Letter 83-36 changes do not impact the consequences on the protective boundaries, and the basis for any Technical Specification is not changed because the instrumentation associated with these changes are passive by nature and do not in any way affect any safety-related equipment. Also, the bases for these proposed Technical Specifications are being revised to include information regarding these systems which serve to provide additional information to plant personnel during and following an accident. Therefore, there is no reduction in the margin of safety associated with these changes.

The changes to Specifications 3.7.A.3 and 3.7.A.6 are for clarification purposes and will not involve a significant reduction in the margin of safety.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado

Date of amendment request: July 14, 1989

Description of amendment request: This amendment request is for an upgraded Technical Specifications (TS) for the plant batteries. It reflects an improved TS as developed in the Fort St. Vrain TS Upgrade Program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) The possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application as follows:

PSC has evaluated the proposed amendment request for significant hazards consideration using the standards in Title 10, Code of Federal Regulations, Part 50.92. The proposed amendment request involves no significant hazards consideration, since the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The operation of the batteries, the Fort St. Vrain plant, and the plant safety systems are not being changed. The battery surveillances are being improved. The battery Service Discharge Test schedule has been established at 18 months in accordance with the Westinghouse Standard Technical Specifications and a Performance Discharge Test has been added in accordance with IEEE Standard 450-1987.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

No change is being made to the operation of the batteries, the Fort St. Vrain plant, or plant safety systems. The only changes being made are designed to improve the reliability of the batteries.

3. Involve a significant reduction in a margin of safety.

The proposed changes are designed to improve the reliability of the batteries. The surveillances are in accordance with vendor recommendations and IEEE guidance.

Based on the above evaluation, it is concluded that operation of Fort St. Vrain in accordance with the proposed changes will involve no significant hazards consideration. PSC considers the proposed changes to be an improvement in the overall plant reliability and documentation as the new surveillances and testing requirements are designed to improve battery performance.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: August 30, 1989

Description of amendment request: The proposed amendment would modify the Technical Specifications to reflect an administrative change in title from Vice President, Production and Engineering to Senior Vice President, Production and Engineering.

Basis for proposed no signficant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision does not involve the physical modification of the plant or plant equipment. This modification to the Technical Specifications is administrative in nature and affects no analyses or responses of the plant to accident conditions.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision to the Technical Specifications does not involve a physical modification to the plant that could result in the creation of an accident not previously analyzed.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

The proposed revision does not alter the licensee's commitment to maintaining the management organization that contributes to the safe operation and maintenance of the plant.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff agrees with the licensee's analysis. Therefore, based on its review, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Harry Voigt, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, DC 20036

NRC Project Director: Richard H. Wessman

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: June 12, 1989 as supplemented August 11, 1989.

Description of amendment request: The proposed amendment requests that certain surveillance requirements for the emergency diesel generators in the Davis-Besse Technical Specifications be revised from an inspection interval of 18 months to a maximum inspection interval of 30 months. The surveillances require that each emergency diesel generator be inspected by procedures prepared in conjunction with its manufacturer's recommendations. The proposed increased inspection interval has been reviewed and concurred in by the emergency diesel generator's manufacturer. The proposed change would also delete the applicability of the extension provisions of Specification 4.0.2 from the surveillance.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the three standards, the licensee provided the following analysis.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the diesel generators are standby equipment which do not contribute to the occurrence of an accident. Extension of the surveillance frequency from 18 months to a maximum of 30 months does not change either the diesel-generator function or its operation. The proposal to increase monitoring of certain diesel-generator parameters will serve to identify adverse operating trends. The ability of the diesel-generators to respond and operate as required will not be degraded as concurred with by the manufacturer of the diesel-generators.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated since the diesel-generators cannot initiate an accident and no hardware changes are being made. On matters related to nuclear safety, all accidents are bounded by previous analysis and no new malfunctions are involved.

The proposed change does not involve a significant reduction in a margin of safety since the assumptions in the licensee's Updated Safety Analysis Report (USAR) remain unchanged and the diesel-generators will continue to perform their function. Past experience with this class of equipment, the demonstrated reliability of the diesel-generators at Davis-Besse, and the

increased trending of the diesel-generator operating parameters to identify adverse operating trends will provide reasonable assurance that there will not be any significant degradation in diesel-generator reliability.

The staff has reviewed and agrees with the licensee's no significant hazards consideration determination analysis. Therefore, based on its review, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: June 16, 1989 as revised August 21, 1989

Description of amendment request: The proposed amendment would involve relocating the values of cycle-specific limits from the Technical Specifications to a new document entitled Core Operating Limits Report in accordance with NRC Generic Letter 88-16. The requirements to meet these limits and the associated Action Statements if limits are not met would be retained in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazard exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazard consideration.

The proposed changes do not involve a significant hazards consideration because the operation of the Davis-Besse Nuclear Power Station in accordance with these changes would:

1. Not involve a significant increase in the probability or consequences of an accident previously evaluated because there have been no hardware changes or design modifications which would affect the probability or the consequences of an accident. Dose consequences are unchanged. The relocation of the core operating limits to a new document does not affect the methodology of limit determination and is, therefore, an administrative change only.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because there will be no hardware changes or design modifications which would create the possibility of a new accident.

3. Not involve a significant reduction in a margin of safety because the operating limits will be determined using the same methodology as in previous core operating limit calculations.

The NRC staff has reviewed and agrees with the licensee's evaluation. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazard consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: August 2, 1989

Description of amendment request: The proposed amendment would revise Technical Specification 3/4.3.3, Radiation Monitoring for Plant Operations, by increasing the permitted period of inoperability for one channel of the control room air intake monitors and the fuel building atmosphere monitors from 1 hour to 72 hours.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) Involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. In the proposed change, when a radiation monitor is allowed to be taken out of service, redundant operable radiation monitors are still in service. The monitors that remain in service provide the same signal to the same equipment and at the same setpoint as the monitor that is removed from service. The additional allowed outage time associated with this change is insignificant when compared to the probability of an event which requires actuation, coincident with a failure of the remaining operable detector. The proposed change does not affect the ability of the monitors to perform their intended safety function. Additionally, the current technical specifications allows one of the two safety trains of either system to be out of service for 7 days.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes or mechanisms associated with the proposed change. This change does not involve any modification in the operational limits or physical design of the involved systems. The change merely allows an extended time period for the diagnosis and repair of radiation monitoring systems, thus reducing the excessive use of the emergency exhaust systems for the control room and fuel building.

The proposed change does not involve a significant reduction in a margin of safety. This change does not affect any technical specification margin of safety. This change allows appropriate actions commensurate with the significance of the monitor malfunction, provided the malfunction does not affect the capability of the monitors to perform their safety function.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; does not involve a reduction in the required margin of safety. The

staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: July 14, 1989

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to allow reduction of the frequency of turbine valve testing. An evaluation performed by Westinghouse Electric Corporation for the Westinghouse Owners Group Turbine Valve Test Frequency (TVTF) evaluation subgroup (WCAP-11525) provides justification for the proposed change.

The specific TS change proposed would include the following: (1) a replacement of the monthly surveillance requirement for turbine governor and stop valves with the variable surveillance frequency requirement consistent with WCAP-11525, not to exceed one year; (2) removal of the operational limitation waiver for the monthly surveillance on Table TS 4.1-3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In regard to the proposed amendment, the licensee has determined the following:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The referenced analysis as reported in WCAP-11525 provides an evaluation of the probability of turbine missile ejection for the purpose of justifying a reduction in the frequency of turbine valve testing. In a letter to Westinghouse Electric Corporation dated February 2, 1987 (C E Rossi, USNRC to J A Martin, Westinghouse), the commission established acceptable criteria for the probability of generating a turbine missile from an unfavorably oriented turbine (acceptable probability of missile generation [less than] 1.0×10^{-5}). The evaluation in WCAP-11525 shows that the probability of a missile ejection incident for turbine valve test intervals of up to one year is significantly less than the established acceptance criteria. The small change in the probability of generating a turbine missile with longer turbine valve testing intervals does not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed amendment decreases the frequency at which turbine valves are tested. The proposed amendment does not change the kind, number, or type of overspeed protection components available. Changing the frequency of turbine valve testing does not result in a significant change in the failure rate or change failure modes for the turbine valves. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

As noted above and as shown in WCAP-11525, this change to the Kewaunee Technical Specifications will not result in a significant reduction in the margin of safety for missile ejection. The probability of missile ejection remains acceptably small and within guidelines established by the NRC Staff.

The NRC staff has reviewed the licensee's determination related to no significant hazards consideration and concurs with its finding.

On this basis, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P.O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Wisconsin Electric Power Company, Docket No. 50-301, Point Beach Nuclear Plant, Unit No. 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: August 8, 1989 as modified August 31, 1989.

Description of amendment request: The amendment would alter Technical Specification (TS) Table 15.3.1-2, Point Beach Nuclear Plant, Unit No. 2 Reactor Vessel Surveillance Capsule Removal Schedule, to change the capsule removal dates for capsules "P" and "S". The proposed change would accelerate the removal of the "S" capsule to the fall of 1990 and delay the removal of the "P" capsule until the fall of 1996. In addition, the bases section would be changed to reflect Point Beach's participation in the Babcock and Wilcox Master Integrated Reactor Vessel Surveillance Program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92 for determining whether a significant hazards consideration exists. A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequence of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety.

The proposed revisions to the surveillance capsule removal schedule are required to reflect flux reductions underway and Point Beach's participation in the BWOG's Master Integrated Reactor Vessel Surveillance Program. The revised surveillance capsule withdrawal schedule will provide reactor vessel materials data more representative of that predicted at End of Life (EOL) and 150% EOL. These changes also are required to satisfy the requirements of 10 CFR Part 50, Appendix H, and ASTM E185-82. The proposed changes to the surveillance capsule withdrawal schedule would have no bearing on the probability or consequences of an accident previously identified since it involves only a schedular change necessary to keep Point Beach in compliance with the regulations and does not involve any physical change or modification to the plant or associated facilities. For the same reason, the proposed changes cannot create the possibility of a new or different kind of accident than any accident previously identified.

Furthermore, the proposed changes do not involve a reduction in the margin of safety. Based on the above information, the staff proposes to determine that the proposed change to the TS does not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Yankee-Rowe Nuclear Power Corporation, Docket No. 50-029, Yankee-Rowe Nuclear Power Station, Boston, Massachusetts

Date of amendment request: August 31, 1989

Description of amendment request: The proposed amendment will incorporate into the Technical Specifications of Yankee Nuclear Power Station (YNPS) new operability and surveillance requirements for equipment installed to meet the criteria of Item II.F.1-1 of NUREG-0737, for the monitoring of noble gas in plant effluent, and to include the Main Steam Line Monitors.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) Create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined the following:

This change is requested in order to add requirements for the noble gas effluent monitoring equipment installed to meet the requirements for NUREG-0737, Item II.F.1-1. This change incorporates the operability and surveillance requirements for the approved equipment in conformance with Technical Specifications provided by the staff in Generic Letter 83-37. As such, this proposed change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. This change incorporates equipment used to assess plant conditions and designed to function during accident conditions. The installed equipment has been determined to conform to staff criteria. This change will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated. This change is administrative in nature and incorporates limitations and surveillances modeled from staff guidance, the implementation of which will not create the possibility of a new or different kind of accident. The installed equipment is in response to the requirements of NUREG-0737.

3. Involve a significant reduction in a margin of safety. As a new Technical Specification, there is no reduction in a margin of safety. The noble gas monitors are utilized to assess plant conditions, during and following an accident. These monitors are operable in Modes 1 through 4, but are not required for safe shutdown of the plant. In case of failure of the monitor, appropriate actions to be taken in a reasonable period of time have been delineated in accordance with staff criteria.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff therefore determines that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room Location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for Licensee: John A. Ritsher, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Richard H. Wessman

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended [the Act], and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: June 13, 1989

Brief description of amendment: The proposed amendment added a note to the Technical Specifications (TS) to clarify the meaning of TS 3.4.1.4 regarding the turbine driven emergency feedwater (EFW) pump operability determination prior to heating the reactor coolant system above 280° F.

Date of issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No.: 125

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31099) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: April 27, 1989

Brief description of amendment: The amendment adds surveillance requirements for testing of the molded case circuit breakers associated with the auxiliary feedwater valve V2-16A and service water system valve VG-16C.

Date of issuance: September 5, 1989

Effective date: September 5, 1989

Amendment No. 123

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** June 14, 1989 (54 FR 25370) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: April 11, 1989, as supplemented June 29, 1989.

Brief description of amendment: The amendment would revise Technical Specification (TS) 5.3.1 by increasing the maximum allowed enrichment of stored fuel to 5.0 weight percent U-235 from 4.2 weight percent U-235. An additional requirement for storage would also be added to TS 5.6.1 to require that a maximum core geometry k-infinity for PWR fuel assemblies be less than or equal to 1.470 at 68° F. The amendment also contains an administrative correction for duplicate numbering in TS Section 5.6.1.

Date of issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No. 12

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 14, 1989 (54 FR 25370) The June 29, 1989, letter provided clarifying information that did not change the initial determination of no significant hazards consideration as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. 50-454 and 50-455, Byron Station, Units 1 and 2, Ogle County, Illinois

Date of application for amendments: April 7, 1989

Brief description of amendments: These amendments revise the Technical Specifications to remove two motor-operated valves from Tables 3.8-2a and 3.8-2b.

Date of issuance: August 30, 1989

Effective date: August 30, 1989

Amendment Nos.: 33, 33

Facility Operating License Nos. NPF-37 and NPF-66. The amendments revised the Technical Specification.

Date of initial notice in **Federal Register:** June 14, 1989 (54 FR 25371) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: April 21, 1989.

Brief description of amendment: The amendment revises and combines Technical Specification (TS) Section 3.6, "Core Cooling Systems," Section 3.7, "Minimum Water Volume and Boron Concentration in the Refueling Water Storage Tank," and Section 4.3, "Core Cooling Systems - Periodic Testing" into a new Technical Specification Section 3.6 titled "Emergency Core Cooling Systems." The amendment changes the custom TS format to Westinghouse Standard Technical Specification (WSTS) format.

Date of Issuance: September 5, 1989

Effective date: September 5, 1989

Amendment No.: 121

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23309) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 5, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company, et al; Docket Nos. 50-245, 50-336 and 50-423, Millstone Units 1, 2, and 3, New London County, Connecticut:

Date of application for amendment: May 25, 1989

Brief description of amendment: The amendments change the Technical Specifications (TS) as follows: (1) Sections 6.10.2.m (Haddam Neck, Millstone Unit Nos. 1 and 2) and 6.10.3 (Millstone Unit No. 3) are being added to the Records Retention section. This section requires lifetime retention of records of reviews performed for changes made to the Radiological Effluent Monitoring and Offsite Dose Calculation Manual (REMODCM) and the Process Control Program (PCP) and (2) Sections 6.17 (Haddam Neck), 6.15 (Millstone Unit Nos. 1 and 2), and 6.13 (Millstone Unit No. 3) are being changed to simplify the administrative controls for making changes to the Radiological Effluent Monitoring Manual (REMM).

Date of Issuance: September 7, 1989

Effective date: September 7, 1989

Amendment Nos.: 122, 24, 143, 40

Facility Operating License Nos. DPR-61, DPR-21, DPR-65 and NPF-49. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31104) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated September 7, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457, and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of application for amendment: June 22, 1989

Brief description of amendment: The amendment raises the maximum allowed service water (river water) temperature from 86° F to 89° F. The amendment also revises a number of requirements associated with this change.

Date of issuance: August 30, 1989

Effective date: August 30, 1989

Amendment No. 20

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31105) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of of application for amendment: December 23, 1988, as supplemented July 12, 1989

Brief description of amendment: The amendment allows for the storage of fuel up to 4.5% of enrichment in both the dry fuel storage racks and storage pool A.

Date of issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No.: 119

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 8, 1989 (54 FR 6194) The July 12, 1989 letter provided supplemental information which did not change the staff's initial determination of no significant hazards considerations.

The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated August 22, 1989, and in a Safety Evaluation dated August 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: June 13, 1989

Brief description of amendment: Removes list of containment penetration valves to be leak tested from the Technical Specifications and makes other administrative changes related to 10 CFR 50 Appendix J.

Date of Issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No.: 151

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31106) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated August 31, 1989

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 12, 1989

Brief description of amendment: The amendment revised the Technical Specifications by increasing the quarterly channel calibrations to monthly on the waste gas holdup system explosive gas monitoring system.

Date of issuance: August 29, 1989

Effective date: August 29, 1989

Amendment No.: 56

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 12, 1989 (54 FR 29406) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 29, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: April 25, 1989, as supplemented June 16, 1989

Brief description of amendment: This amendment revised the Technical Specifications which contain cycle-specific parameter limits by replacing the values of those limits with a reference to a Core Operating Limits Report for the values of those limits. These changes are in accordance with Generic Letter 88-16. The licensee's June 16, 1989 submittal amended the April 25, 1989 submittal. However, the changes did not change the intent of the original submittal and were more conservative. Specifically, revisions to pages 11 and 64 were deleted because changes to the Linear Heat Generation Rate (LHGR) parameters were not included in Generic Letter 88-16. Therefore, the current Specification remains in place. In addition, the submittal made editorial changes to include the words "latest approved revision" for referenced documents. This clarifies that only NRC approved documents are used. Section 6.9.2.f was also reformatted. In addition, the words "its supplements and revisions" were deleted from the definition of the Core Operating Limits Report. Because the changes did not change the intent of the original submittal and were made only to clarify the intent, the action was not renoticed.

Date of issuance: August 21, 1989

Effective date: August 21, 1989

Amendment No.: 109

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23317) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 21, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 20, 1989

Brief description of amendment: The amendment changes the Millstone Unit 3 Technical Specifications (TS) to allow storage of fuel with an enrichment of up to 5.0 nominal weight percent U-235 as follows: (1) Section 1.0, "Definitions," is changed by adding new TS 1.40 and 1.41 to define the fuel regional storage pattern, (2) A new TS 3/4.9.13 "Spent Fuel Pool - Reactivity," is added to limit the fuel K_{eff} to less than or equal to .95, (3) A new TS 3/4.9.14, "Spent Fuel Pool - Storage Pattern," is added to implement the fuel storage pattern, (4) TS 5.6.1.1, "Criticality" is changed and expanded to address the storage of fuel utilizing a regional storage system, and (5) A new TS 5.6.3, "Capacity" is added to address the use of cell blocking devices in the storage of fuel. In addition to the above, TS 5.6.1.2, is deleted.

Date of issuance: August 29, 1989

Effective date: August 29, 1989

Amendment No.: 39

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 21313) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 29, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: June 19, 1989

Brief description of amendment: One-time change to Technical Specification section 4.0.2.b extending combined three consecutive surveillance intervals limit.

Date of issuance: August 28, 1989

Effective date: August 28, 1989

Amendment No.: 57

Facility Operating License No. NPF-22. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31112) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: December 28, 1989

Brief description of amendments: These amendments revised the minimum count rate required on the source range monitors for refueling.

Date of issuance: August 28, 1989

Effective date: August 28, 1989

Amendments Nos.: 147 and 149

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27232) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: August 16, 1988

Brief description of amendment: The amendment revises the Technical Specifications to conform to the Standard Technical Specifications related to Monthly Operating Reports including the reporting of relief and safety valve challenges on a monthly rather than an annual basis.

Date of issuance: September 5, 1989

Effective date: September 5, 1989

Amendment No.: 88

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 16, 1988 (53 FR 46153). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: April 24, 1989.

Brief description of amendment: The amendment identifies the high pressure water fire protection system boundary as the hose station riser isolation valve and removes the reference that the valves are located near water flow alarms.

Date of issuance: September 5, 1989

Effective date: September 5, 1989

Amendment No.: 135

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** June 14, 1989 (54 FR 25375) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 19, 1989

Brief description of amendment: The amendment corrects certain errors in Tables 4.1-1, 4.1-2 and 4.2-1.

Date of issuance: September 5, 1989

Effective date: September 5, 1989

Amendment No.: 136

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27237) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 19, 1989

Brief description of amendment: The amendment replaces organization charts in Section 6 with more general organizational requirements.

Date of issuance: September 7, 1989

Effective date: September 7, 1989

Amendment No.: 137

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** June 28, 1989 (54 FR 27237) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: June 9, 1989

Brief description of amendment: The amendment effectively requires reactor shutdown after June 30, 1990. (Reactor power is limited to 2 percent of full power.)

Date of issuance: August 30, 1989

Effective date: August 30, 1989

Amendment No.: 72

Facility Operating License No. DPR-34. Amendment revised the license.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31118) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 30, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: June 6, 1989

Brief description of amendment: The amendment request increased the hydrostatic test pressure for containment isolation valves provided with a water seal from the suppression pool, clearly defined as-left penetration leakage for these same valves, and deleted an incorrect cross-reference.

Date of issuance: August 28, 1989

Effective date: Upon the date of issuance and shall be implemented within 60 days of the date of issuance.

Amendment No. 32

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31118) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: September 12, 1988 and supplemented on March 3, 1989 and June 8, 1989. The March 3, 1989 supplemental letter provided revised pages to correct administrative errors in the original submittal and the Index. The June 8, 1989 supplemental letter clarified the action statements.

Brief description of amendments: Added Technical Specifications for reactor vessel head vents in accordance with the requirements of Generic Letter 83-37, NUREG-0737 Technical Specifications, dated November 1, 1983.

Date of issuance: August 28, 1989

Effective date: Units 1 and 2; As of the date of issuance and implemented within 45 days of the date of issuance.

Amendment Nos. 101 and 78

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 22, 1989 (54 FR 7645) and July 26, 1989 (54 FR 31119) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: April 11, 1989

Brief description of amendment: The amendment reissues the Technical Specifications in their entirety.

Date of issuance: August 21, 1989

Effective date: This license amendment is effective the date of issuance and must be fully implemented no later than 30 days from date of issuance.

Amendment No.: 130

Provisional Operating License No. DPR-13. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 3, 1989 (54 FR 18961). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 21, 1989.

No significant hazards consideration comments received: No comments.

Local Public Document Room location: General Library, University of California, Post Office Box 19557, Irvine, California 92713.

System Energy Resources, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 2, 1988

Brief description of amendment: The proposed amendment changes Technical Specification 3/4.9.6.3, Fuel Handling Platform, by adding surveillance requirements for a second auxiliary hoist and by changing the name of the original auxiliary hoist to "monorail auxiliary hoist".

Date of issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No. 61

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5169) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

System Energy Resources, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: December 18, 1988, as revised February 24, 1989.

Brief description of amendment: The amendment changes the Technical Specifications (TS) by deleting TS 3/4.3.10, Neutron Flux Monitoring Instrumentation, and modifying TS 3/4.4.4.1, Recirculation System. Figure 3.4.1.1-1, Power Flow Operating Map, is changed to redefine flow stability regions. TS 3/4.4.1 is changed to reflect the redefined regions of Figure 3.4.1.1-1. The Bases for TS 3/4.3.10 and TS 3/4.4.1 are changed to reflect the changes in these TS.

Date of issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No. 62

Facility Operating License No. NPF-29. This amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1989 (54 FR 23324) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: February 2, 1989

Brief description of amendment: This amendment modifies the Technical Specifications on Primary Containment Isolation Valve Testing in the Head Spray Subsystem of Residual Heat Removal System.

Date of issuance: September 7, 1989

Effective date: September 7, 1989

Amendment No. 115

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 26, 1989 (54 FR 31120) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: April 6, 1989

Brief description of amendments: These amendments add requirements to perform full flow testing of the inside recirculation spray pumps (IRSPs) each refueling outage. In addition, the amendments require a visual inspection of the containment sumps each refueling outage and after major maintenance of the IRSP to verify sump component integrity and the absence of foreign debris.

The licensee's request to change the dry rotation testing on the IRSPs from monthly to quarterly was also requested in an earlier amendment application and was approved in Amendment Nos. 128 and 128 dated May 24, 1989.

Date of issuance: August 28, 1989

Effective date: August 28, 1989

Amendment Nos. 132 & 132

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 17, 1989 (54 FR 2317) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 28, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: October 21, 1988 and as supplemented on November 22, 1988

Brief description of amendment: The amendment modifies two descriptions within the Technical Specification, Section 2, Bases, to be consistent with present safety analysis and to remove the operability requirement associated with the High Pressurizer Water Level instrument.

Date of issuance: August 31, 1989

Effective date: August 31, 1989

Amendment No.: 123

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 14, 1988 (53 FR 50336) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: March 11, 1988

Brief description of amendment: The amendment modifies the Technical Specifications by removing the onsite and offsite facility organization charts from Section 6.0.

Date of issuance: September 7, 1989

Effective date: September 7, 1989

Amendment No.: 124

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11379) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 7, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the

documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By October 20, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: August 28, 1989

Description of amendments request: These amendments will permit the "B" Loop of the RHR heat exchanger on each unit to be fed from the RHR "C" and "D" service water pumps from Unit 1 via the cross-tie line until November 1, 1989.

Date of issuance: September 1, 1989

Effective date: September 1, 1989

Amendment No.: 119, 115

Facility Operating License No. DPR-29 and DPR-30: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment, finding of emergency circumstances, final determination of no significant hazards consideration are contained in a Safety Evaluation dated September 1, 1989.

Attorney for licensee: Michael Miller, Esq., Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon Illinois 61021.

NRC Acting Project Director: Paul C. Shemanski

Indiana Michigan Power Company, Docket No. 50-315 Donald C. Cook Nuclear Plant, Unit No. 1 Berrien County, Michigan

Date of application for amendment: September 1, 1989

Brief description of amendment: This amendment would modify TS 3/4.7.8 (snubbers) such that functional testing of a snubber installed on the pressurizer spray line may be delayed until the next time the unit is brought to Mode 5, or in conjunction with the ice condenser, ice basket surveillance, whichever occurs first.

Date of issuance: September 6, 1989

Effective date: September 6, 1989

Amendment No.: 128

Facility Operating License No. DPR-58. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration. No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated September 6, 1989.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: John O. Thoma, Acting

Washington Public Power Supply System, et al., Docket No. 50-397, Nuclear Project, No. 2, Benton County, Washington

Date of application for amendment: September 8, 1989

Brief description of amendment: This amendment revises Technical Specification Table 3.3.1-2, "Reactor Protection System Response Times," by changing the response time for Functional Unit 2.b Flow Biased Simulated Thermal Power - Upscale. Prior to the amendment request, the response time specified for this parameter was to be less than or equal to 0.09 seconds with a footnote which declared that this limit is "not including simulated thermal power time constant, 6 27 1 seconds." As amended, the limit for the parameter is 6 27 1 seconds and the footnote reads: "Including simulated thermal power time constant."

Date of issuance: September 8, 1989

Effective date: This license amendment is effective as of the date of issuance.

Amendment No.: 73

Facility Operating License No. NPF-21: Amendment revised the Technical Specifications.

Public Comment requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the State of Washington, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated September 8, 1989.

Attorneys for licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell Reynolds, 1400 L Street, NW., Washington, DC 20005-3502 and Mr. G. E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99352.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

NRC Project Director: George Knighton

Dated at Rockville, Maryland, this 13th day of September 1989.

For the Nuclear Regulatory Commission

Gus C. Lainas,

Acting Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 89-22077 Filed 9-19-89; 8:45 am]

BILLING CODE 7590-01-D

Abnormal Occurrence Report; Section 203 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 12, No. 1).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material are abnormal occurrences.

The report to Congress is for the first calendar quarter of 1989. The report identifies the occurences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described.

For this reporting period, there were two abnormal occurrences at nuclear power plants licensed to operate. The first had generic implications and involved a plug failure resulting in a steam generator tube leak at North Anna Unit 1. The second involved a steam generator tube rupture at McGuire Unit 1. There were three abnormal occurrences under other NRC-issued licenses. Two involved medical therapy misadministrations and one involved a medical diagnostic misadministration. There were no abnormal occurrences reported by the Agreement States.

The report also contains information updating some previously reported abnormal occurrences.

A copy of the report is available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 12, No. 1 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is alaso available.

Copies of the report may also be purchased from the National Technical Information Service, Springfield, VA 22161.

Dated at Rockville, MD this 15th day of September 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89–22224 Filed 9–19–89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

34–27242; [File No. 600–26]

Self-Regulatory Organizations; Clearing Corp. for Options and Securities; Application for Temporary Registration as a Clearing Agency; Extension of Time for Submission of Comments

September 13, 1989.

On October 14, 1988, the Clearing

Corporation for Options and Securities ("CCOS") filed with the Commission an application under Section 19(a) of the Securities Exchange Act of 1934 ("Act"),[1] for temporary registration as a clearing agency under Section 17A of the Act[2] and Rule 17Ab2–1(c) thereunder.[3] On November 23, 1988, the Commission published in the Federal Register notice of CCOS's filing and invited interested persons to submit, on or before December 23, 1988, written data, views, and arguments ("comments") concerning the application and the Commission's specific comment requests.[4] On December 20, 1988, at the request of the Options Clearing Corporation ("OCC"),[5] the Commission extended the comment period to January 31, 1989.[6] Several comments were received.[7]

Subsequently, CCOS filed three amendments to its application, including: (1) a letter describing a proposed CCOS–OCC interface;[8] (2) an amendment to CCOS By-laws and rules;[9] and (3) a letter addressing issues raised by the Division of Market Regulation ("Division") staff.[10] On August 7, 1989, the Commission published notice of those amendments in the Federal Register and requested comments by September 21, 1989.[11]

[1] 15 U.S.C. 78s(a) (1988).

[2] 15 U.S.C. 78q–1 (1988).

[3] 17 CFR 240.17Ab2–1(c) (1988).

[4] *See* Securities Exchange Act Release No. 26286 (November 16, 1988), 53 FR 47597.

[5] *See* Letter from Burton R. Rissman, Schiff, Hardin & Waite, to Jonathan G. Katz, Secretary, Commission, dated December 3, 1988.

[6] *See* Securities Exchange Act Release No. 26380 (December 20, 1988), 53 FR 52282. The request for extension of the comment period was opposed by CCOS. *See* Letter from Alan B. Cohen, Cleary, Gottlieb, Steen & Hamilton, to Jonathan Kallman, Assistant Director, Division of Market Regulation, dated December 20, 1988.

[7] *See* File No. 600–26.

[8] *See* Letter from Roger D. Rutz, President & Chief Executive Officer, Board of Trade Clearing Corporation ("BOTCC"), to Jonathan G. Katz, Secretary, Commission, dated June 6, 1989.

[9] *See* Letter from Alan B. Cohen, Cleary, Gottlieb, Steen & Hamilton, to Jonathan Kallman, Assistant Director, Division of Market Regulation, dated June 23, 1989.

[10] *See* Letter from Dennis A. Dutterer, Senior Vice President and General Counsel, CCOS and BOTCC, to Richard G. Ketchum, Director, Division of Market Regulation, dated July 19, 1989 ("Response Letter"). *See* Letter from Richard G. Ketchum, Director, Division of Market Regulation, to Dennis A. Dutterer, Senior Vice President and General Counsel, CCOS and BOTCC, dated June 7, 1989, in which the Division raised issues addressed in the Response Letter.

[11] *See* Securities Exchange Act Release No. 27083 (August 1, 1989), 54 FR 32410.

[12] *See* Letter from Burton R. Rissman, Schiff, Hardin & Waite, to Jonathan G. Katz, Secretary, Commission, dated August 25, 1989.

OCC has requested that the time period for submitting comments on CCOS's amendments be extended to October 5, 1989.[12] The Commission has determined to extend the time period for submission of comments on CCOS's amendments to October 2, 1989. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. 600–26. Copies of CCOS's application, amendments, and all written submissions pertaining thereto will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–22245 Filed 9–19–89; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; New York Stock Exchange, Incorporated

September 14, 1989.

The above named national securities exchange has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 thereunder for unlisted trading privileges ("UTP") in 205 securities listed in the attached Exhibit A for the purpose of trading Exchange Stock Portfolios ("Stock Portfolios") which are based on the Standard & Poors 500 Portfolio Index ("Index").[1]

As indicated by Exhibit A, NYSE is applying for UTP on 98 stocks registered on the American Stock Exchange and 107 over-the-counter securities ("OTC") that are not registered under Section 12 of the Act and that are quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"). Last sale information relating to the exchange listed stocks is reported in the consolidated transaction reporting system. Last sale information on the OTC stocks is reported through NASDAQ facilities.

Interested persons are invited to submit on or before September 30, 1989 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(1)(C) of the Act. Under this section the Commission can only approve the UTP application if its finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

Further, in considering the NYSE's application for extension of UTP in the 107 NASDAQ stocks, section 12(f)(1)(C) of the Act requires the Commission to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(2)(C) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

September 8, 1989.

Ms. Colette Clark,

Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street NW., Washington, DC 20549

Dear Ms. Clark: Pursuant to Sections 12(f)(1)

[1] *See* proposed rule filing SR–NYSE–89–05. The NYSE application includes the thirty-eight stocks currently comprising the Index that are not listed and registered on the NYSE (The remaining 462 stocks comprising the Index are currently traded on the NYSE). The NYSE believes that the remaining 167 stocks on which they have applied for UTP are likely candidates for substitution in the Index. The NYSE has indicated that UTP on the stocks in its application will be used for the limited purpose of trading these securities as part of the NYSE's Exchange Stock Portfolio and then only to the extent these securities are actually included in the Stock Portfolio.

(B) and (C) of the Securities Exchange Act of 1934, as amended, and Rule 12f–1 (17 CFR 240.12f–1), the New York Stock Exchange, Inc. hereby applies for unlisted trading privileges in the exchange-listed and over-the-counter ("OTC") securities listed below:

Symbol	Issuer	Class
I. Amex-Listed Stocks		
AMEX		
AMH	Amdahl Corp.	
API.A	American Petrofina Co	A
ATC	Atari Corp.	
ATX.A	Cross Co	A
AZA	Alza Corp.	
BBC.A	Bergen Brunswig Corp	A
BF.A	Brown-Forman Corp	A
BF.B	Brown-Forman Corp	B
BHA	Biscayne Holdings Inc.	
BIC	Bic Corp.	
BID	Sotheby's Holdings Inc	A
BL	Blair Corp.	
BLR	Bolar Pharmaceutical Co. Inc.	
BNE	Bowne & Co. Inc.	
CCL	Carnival Cruise Lines Inc	A
CDV.A	Chambers Development Co. Inc.	A
CDV.B	Chambers Development Co. Inc.	A
CFB	Citizens First Bancorp	
CJN	Caesars New Jersey Inc.	
CTY	Century Communications Corp.	A
CVC	Cablevision Systems Corp	A
DIA	Diasonics Inc.	
DPC	Dataproducts Corp.	
EXC	Excel Industrial Inc.	
FCE.A	Forest City Enterprises Inc	A
FCE.B	Forest City Enterprises Inc	B
FES	First Empire State Corp.	
FRK	Florida Rock Industries Inc.	
FRX	Forest Laboratories Inc	A
FTL	Fruit of the Loom Inc	A
GAN	Garan Incorporated	
GB	Guardian Bancorp	
GDS.B	Glenmore Distilleries Co	B
GFS.A	Giant Food Inc	A
GLT	Glatfelter Co.	
GO	Collins Industries Inc.	
HA	HAL Inc.	
HAI	Hampton Industries Inc.	
HAS	Hasbro Inc.	
HBW	Howard B Wolf Inc.	
HCO	Hubco Inc.	
HEI	Heico Corporation	
HGC	Hudson General Corp.	
HOC	Holly Corp.	
HOV	Hovnanian Enterprises Inc.	
HRL	Hormel & Co.	
HSN	Home Shopping Network Inc.	
HUB.A	Hubbell Inc	A
HUB.B	Hubbell Inc	B
ICH	ICH Corp.	
JBM	Jan Bell Marketing Inc.	
LFA	Littlefield Adams & Co.	
LII	Larizza Industries Inc.	
LJC	La Jolla Bancorp.	
MEG.A	Media General Inc	A
MMZ.A	Metro Mobile CTS Inc	A
MMZ.B	Metro Mobile CTS Inc	B
MND	Mitchell Energy & Development Corp.	
MXM	Maxxam Inc.	
NAN	Nantucket Industries Inc.	
NYT.A	New York Times Co	A
OEA	OEA Inc.	
ONA	Oneita Industries	
OSL	O'Sullivan Corp.	
PAR	Precision Aerotech Inc.	
PGU	Pegasus Gold Inc.	
PLL	Pall Corp.	
PRY	Pittway Corp.	
RAV	Raven Industries Inc.	
RDK	Ruddick Corp.	
SA	Stage II Apparel Corp.	
SBA	Sbarro Inc.	
SEB	Seaboard Corp.	
SER	Sierracin Corp.	
SGC	Superior Surgical Manufacturing Co. Inc.	
SMC.A	Smith A.O. Corp	A
SMK	Sanmark Stardust Inc.	
SP	Spelling Entertainment Inc	A
SUP	Superior Industries International Inc.	
SWD	Standard Shares Inc.	
TBS.A	Turner Broadcasting System Inc.	A
TBS.B	Turner Broadcasting System Inc.	B
TDS	Telephone and Data Systems Inc.	
TFX	Teleflex Inc.	
THI	Thermo Instrument Systems Inc.	
TMD	Thermedics Inc.	
TRC	Tejon Ranch Co.	
USM	United States Cellular Corp.	
VAC.A	Vermont American Corp	A
VAL	Valspar Corp.	
VIA	Viacom Inc.	
VOT	Voplex Corporation	
WAB	Westamerica Bancorporation	
WAH	Westair Holding Inc.	
WAN.B	Wang Laboratories Inc	B
WDC	Western Digital Corp.	
WPO.B	Washington Post Co	B
WSC	Wesco Financial Corp.	
II. OTC-Traded Stocks		
AAPL	Apple Computer Inc.	
ACAD	Autodesk Inc.	
ACCOB	Adolph Coors Co	A
AGREA	American Greetings Corp	A
ALEX	Alexander and Baldwin Co.	
AMGN	Amgen Inc.	
AMTR	Ameritrust Corp.	
ANAT*	American National Insurance Co.	
ANDW	Andrew Corp.	
ATCMA	American Television and Communications.	A
BETZ	Betz Laboratories, Inc.	
BNHI	Bancorp Hawaii Inc.	
BOAT	Boatmens Bancshares Inc.	
BRNO	Brunos Inc.	
BSET	Bassett Furniture Industries Inc.	
CCLR	Commerce Clearing House Inc.	
CCXLA	Contel Cellular Inc	A
CHRS	Charming Shoppes Inc.	
CINF	Cincinnati Financial Corp.	
CITUB	Citizens Utilities Co	B
CMCA	Comerica Inc.	
CMCSA	Comcast Corp	A
CNCAA	Centel Cable Television Co	A
COMM	Cellular Communication Inc.	
CPER	Consolidated Papers Inc.	
CRBN	Calgon Carbon Corp.	
CRFC	Crestar Financial Corp.	
CSFN	Corestates Financial Corp.	
CTCO	Cross and Trecker Corp.	
CTYN	City National Corp.	
DIGI	DSC Communications Corp.	
DMBK	Dominion Bankshares Corp.	
EWSC	E.W Scripps Co	A
FDLNB	Food Lion Inc	B
FEXC	First Executive Corp.	
FITB	Fifth Third Bancorp.	
GOSHA	Oshkosh B Gosh Inc	A
HAML	Hamilton Oil Corp.	
HBAN	Huntington Bancshares Inc.	
HBOL	Hartford Steam Boiler Inspection and Insurance	
HECHA	Hechinger Co	A
HENG	Henley Group Inc	A
INGR	Intergraph Corp.	
INTC	Intel Corp.	
ITGR	Integra Financial Corp.	
JERR	Jerrico Inc.	
JJSC	Jefferson Smurfit Corp.	
KELYA	Kelly Services Inc	A
LINB	Lin Broadcasting Corp.	
LIZC	Liz Claiborne Inc.	
LMED	Lyphomed Inc.	
LNCE	Lance Inc.	
LOTS	Lotus Development Corp.	
MASX	Masco Industries Inc.	
MCAWA	McCaw Cellular Communications Inc.	A
MCCRK	McCormick and Company Inc.	
MCCS	Medco Containment Services Inc.	
MCIC	MCI Communications Corp.	
MIDL	Midlantic Corp.	
MMEDC	Multimedia Inc.	
MNCO	Michigan National Corp.	
MNTL	Manufacturers National Corp.	
MOLX	Molex Inc.	
MRDN	Meridian Bancorp. Inc.	
MRIS	Marshall and Ilsley Corp.	
MSFT	Microsoft Corp.	
NHLI	National Health Laboratories Inc.	
NIKE	Nike Inc	B
NGNA	Neutrogena Corporation	
NOBE	Nordstrom Inc.	
NOVL	Novell Inc.	
NOXLB	Noxell Corp	B
NTRS	Northern Trust Corp.	
OCAS	Ohio Casualty Corp.	
ORCL	Oracle Systems Corp.	
PACCB	Provident Life and Accident Insurance of America.	B
PCAR	Paccar Inc.	
PCLB	Price Co.	
PHYB	Pioneer Hi Bred International Inc.	
PTCM	Pacific Telecom Inc.	
ROAD	Roadway Services Inc.	
ROUS	Rouse Co.	
SAFC	Safeco Corp.	
SCRP	Scripps Howard Broadcasting Co.	
SGAT	Seagate Technology Inc.	
SIAL	Sigma Aldrich Corp.	
SMED	Shared Medical Systems Corp.	
SOCI	Society Corp.	
SONO	Sonoco Products Co.	
SPGLA	Spiegel Inc	A
STBK	State Street Boston Corp.	
STJM	St. Jude Medical Inc.	
STPL	St. Paul Companies Inc.	
SUNW	Sun Microsystems Inc.	
TCOMA	Tele Communication Inc	A
TECU	Tecumseh Products Co.	
TYSNA	Tyson Foods Inc	A
UBNK	Union Bank	
USBC	U.S. Bancorp of Oregon	
USWNA	U.S. West New Vector Group Inc.	A
VCELA	Vanguard Cellular Systems Inc	A
WETT	Wetterau Inc.	
WILM	Wilmington Trust Co.	
WMOR	Westmoreland Coal Co.	
WMTT	Willamette Industries Inc.	
WTHG	Worthington Industries Inc.	
YELL	Yellow Freight System Inc. of Delaware	

*All stocks in this list are common stock.

Last sale information relating to single-stock executions for the exchange-listed stocks is reported in the consolidated transaction reporting system; such last sale

information for the OTC stocks is reported through NASDAQ facilities.

If granted, the NYSE will use the unlisted trading privileges for the limited purpose of trading these securities as part of the NYSE's Exchange Stock Portfolio,** and only to the extent these securities are included in the Exchange Stock Portfolio.

Copies of this application have been sent to the issuers, to the exchanges on which the securities are traded and to the National Association of Securities Dealers, Inc.

Sincerely,

J.E. Bush,

cc: Mr. Howard Kramer,

Division of Market Regulation.

[FR Doc. 89-22159 Filed 9-19-89; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

September 13, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Waxman Industries, Inc.
Common Stock, No Par Value (File No. 7-5302)

Asset Investors Corp.
Common Stock, $0.01 Par Value (File No. 7-5303)

CIGNA High Income Shares
Shares of Beneficial Interest (File No. 7-5304)

CPI Corp.
Common Stock, $0.40 Par Value (File No. 7-5305)

La-Z-Boy Chair Company
Common Stock, $1 Par Value (File No. 7-5306)

The Leslie Fay Companies, Inc.
Common Stock, $1 Par Value (File No. 7-5307)

McClatchy Newspapers, Inc.
Class A Common Stock, $0.01 Par Value (File No. 7-5308)

Pilgrim's Pride Corp.
Common Stock, $0.01 Par Value (File No. 7-5309)

Ogden Projects, Inc.
Common Stock, $.50 Par Value (File No. 7-5310)

National Westminster Bank PLC
American Depositary Shares (File No. 7-5311)

OMI Corp.
Common Stock, $0.50 Par Value (File No. 7-5312)

Stoneridge Resources, Inc.
Common Stock, $0.10 Par Value (File No. 7-5313)

Tidewater Inc.
Common Stock, $0.50 Par Value (File No. 7-5314)

Apex Municipal Fund, Inc.
Common Stock, $.10 Par Value (File No. 7-5315)

Hyperion Total Return Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-5316)

MC Shipping, Inc.
Common Stock, $.01 Par Value (File No. 7-5317)

CUC International, Inc.
Common Stock, $.01 Par Value (File No. 7-5318)

Hormel (George A.) & Company
Common Stock, $0.2344 Par Value (File No. 7-5319)

Santa Fe Pacific Pipeline Partners, L.P.
Preference Depositary Units (File No. 7-5320)

Idaho Power Company
Common Stock, $2.50 Par Value (File No. 7-5321)

Union Carbide Corp.
Common Stock, $1 Par Value (File No. 7-5322)

Morton International, Inc.
Common Stock, $1 Par Value (File No. 7-5323)

Thiokol Corporation
Common Stock, $1 Par Value (File No. 7-5324)

Chart House Enterprises, Inc.
Common Stock, $.01 Par Value (File No. 7-5325)

Grace Energy Corporation
Common Stock, $.1 Par Value (File No. 7-5326)

Harken Energy Corporation
Common Stock, $.1 Par Value (File No. 7-5327)

Athlone Industries, Inc.
Common Stock, $0.10 Par Value (File No. 7-5328)

Edison Brothers Stores, Inc.
Common Stock, $1 Par Value (File No. 7-5329)

Prime Motor Inns Limited Partnership
Limited Partnership Units (File No. 7-5330)

Santa Fe Energy Partners, L.P.
Limited Partnership Units (File No. 7-5331)

Wheelabrator Technologies, Inc.
Common Stock, $0.01 Par Value (File No. 7-5332)

First Australia Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-5333)

First Iberian Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-5334)

Helevetia Fund, Inc.
Common Stock, $0.001 Par Value (File No. 7-5335)

India Growth Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-5336)

Killearn Properties, Inc.
Common Stock, $0.10 Par Value (File No. 7-5337)

The Malaysia Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-5338)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 4, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-22160 Filed 9-19-89; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-19381]

Application and Opportunity for Hearing; 3 Bealls Holding Corp.

September 14, 1989.

Notice is hereby given that 3 Bealls Holding Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the (a) trusteeship of a First Interstate Trust Company of New York ("First Interstate") under an indenture dated as of December 1, 1988 ("First Interstate December Indenture") between the Company and First Interstate, which was heretofore qualified under the Act, and under an indenture dated as of April 15, 1989 between the Company and First Interstate ("First Interstate April Indenture") which has not been qualified under the Act, and (b) the trusteeship of Bankers Trust Company

** "Exchange Stock Portfolio" is a service mark of the New York Stock Exchange, Inc.

("Bankers Trust") under an indenture dated as of December 1, 1988 ("Bankers Trust December Indenture"), which was heretofore qualified under the Act, and under an indenture dated as of April 15, 1989 between the Company and Bankers Trust ("Bankers Trust April Indenture") which has not been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in public interest or for the protection of investors to disqualify First Interstate or Bankers Trust from acting as trustee under their respective indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the First Interstate December Indenture, the Company issued $8,597,405 aggregate principal amount of its 6% Notes Due 1989 ("Notes"). The Notes were registered under the Securities Act of 1933 ("1933 Act") and the First Interstate December Indenture was qualified under the Act.

(2) Pursuant to the Bankers Trust December Indenture the Company issued $12.036,367 aggregate principal amount of its Increasing Rate Subordinated Debentures Due 2002 ("Debentures"). The Debentures were registered under the 1933 Act and the Bankers Trust December Indenture was qualified under the Act.

(3) Pursuant to (a) the First Interstate April Indenture, the Company will issue $1,281,107.50 aggregate principal amount of its 6% Notes Due 1989, Series B ("Series B Notes"), and (b) the Bankers Trust April Indenture, the Company will issue $2,946,547.25 aggregate principal amount of its Increasing Rate Subordinated Debentures Due 2002, Series B ("Series B Debentures"). The Series B Notes and the Series B Debentures will not be registered under the 1933 Act on the basis that the Series B Notes and Series B Debenture will be issued in reliance upon the exemption afforded by Section 4(2) of the 1933 Act.

(4) The Series B Debentures Notes and Series B Debentures are to be issued under the Settlement Agreement whereby certain shareholders exercised appraisal rights under the Texas Business Corporation Act.

(5) The Company's obligations under the First Interstate December and April Indentures and under the Bankers Trust December and April Indentures are wholly unsecured and *pari passu inter se*.

(6) The Company is not in default under the First Interstate December or April Indentures nor under the Bankers Trust December or April Indentures.

(7) The provisions of the First Interstate December and April Indentures and of the Bankers Trust December and April Indentures, respectively, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of inventors to disqualify First Interestate or Bankers Trust from acting as Trustee under its respective Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connectin with this matter.

For a more detailed statement of matters of fact and law asserted, all persons are referred to the application which is on file in the Office of the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than October 9, 1989 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of fact or law raised by the application that he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-22246 Filed 9-19-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcing the Sixth Meeting of the Motor Vehicle Safety Research Advisory Committee

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

ACTION: Meeting announcement.

SUMMARY: This notice announces the sixth meeting of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The Committee was established in accordance with the provisions of tbe Federal Advisory Committee Act to obtain independent advice on motor vehicle safety research. At this meeting the Committee will discuss the work of the standing subcommittees. The Committee will also consider matters relating to the progress regarding the development of a U.S. Intelligent Vehicle/Highway Program.

DATE AND TIME: The meeting is scheduled to begin at 10:30 a.m. on Monday, October 30, 1989, and conclude at 5:00 p.m. that afternoon.

ADDRESS: The meeting will be held in Room 2230 of the U.S. Department of Transportation Building, which is located at 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for motor vehicle safety research. The MVSRAC will provide information, advice, and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration and communication of motor vehicle safety research, as set forth in tbe MVSRAC Charter.

The meeting is open to the public, and participation by the public will be determined by the Committee Chairman.

A public reference file (Number 88-01) has been established to contain the products of the Committee and will be open to the public during the hours of 8:00 a.m. to 4:00 p.m. at tbe National Highway Traffic Safety Administration's Technical Reference Division in Room 5108 at 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366-2768.

FOR FURTHER INFORMATION CONTACT: Mary Coyle, Office of Research and Development, 400 Seventh Street, SW., Room 6206, Washington, DC 20590, telephone: (202) 366-5926.

Issued on September 13, 1989.

Howard M. Smolkin,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 89-22144 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Aviation, Marine and Land Radionavigation Users Conference

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of conference.

SUMMARY: An Aviation, Marine and Land Radionavigation Users Conference will be conducted in Washington, DC on November 16 and 17, 1989. The purpose of the conference is to present to the users and suppliers of navigation equipment the opportunity to comment on current plans and policy for Federally provided systems which satisfy aviation, marine, inland waterway and land radionavigation requirements.

DATE, TIME AND PLACE: November 16 and 17, 1989 beginning 9:00 AM each day at the Crystal Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, Virginia. November 16 will focus primarily on marine and land requirements. November 17 will focus primarily on aviation requirements.

FURTHER INFORMATION: For marine and land information contact David C. Scull, Office of Research and Technology, Research and Special Programs Administration, Department of Transportation (DRT-20), 400 7th Street, SW., Washington, DC 20590, (202) 366-4355. For aviation information contact Thomas H. Higgins, Advanced Systems Design Service, Federal Aviation Administration, Department of Transportation (ADS-110), 800 Independence Avenue SW., Washington, DC 20591, (202) 267-9844.

SUPPLEMENTARY INFORMATION: Each day the meeting will open with an overview of the Federal radionavigation planning process, the Federal Radionavigation Plan, and current plans and policy for Federally operated radionavigation systems. This information relates to the selection of a future mix of radionavigation systems as required by the Federal Radionavigation Plan. An opportunity will be provided for organizations or individuals representing the users and suppliers of radionavigation systems to participate in the meeting and make their comments to representatives of the FAA, Coast Guard, RSPA, Maritime Administration and other government agencies participating in the conference.

Issued in Washington, DC, on September 13, 1989.

Travis P. Dungan,

Administrator.

[FR Doc. 89-22145 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 19, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW, Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10238-N	Poly Processing Co., Monroe, LA	49 CFR part 173, subparts D, E, and F	To authorize manufacture, marking, and sale of 330-gallon non-DOT specification polyethylene tanks for use in the transportation of various flammable, corrosive and oxidizing materials (modes 1, 2, 3).
10239-N	E.I. du Point de Nemours & Company, Wilmington, DE.	49 CFR part 179.200—18(b)(1)	To authorize placement of a surge baffle in the vent nozzle of DOT specification 111A110W5 rubber lined tank cars, used in hydrochloric acid, classed as corrosive material, which will reduce the vent opening to 1-inch inside diameter (mode 2).
10240-N	Ethyl Corporation, Baton Rouge, LA	49 CFR part 173.252(a)(4)(ii)	To authorize shipment of bromine, classed as a corrosive material in MC-312 cargo tanks constructed of nickel clad steel of ⅜-inch total thickness. (mode 1).
10241-N	Ercros North America, Inc., White Plains, NY.	49 CFR part 173.127, 173.184	To authorize shipment of nitrocellulose, alcohol wet, classed as a flammable liquid, and nitrocellulose, water wet, classed as a flammable solid, in non-DOT specification 125 liter capacity fiberboard drums (modes 1, 2).
10243-N	BD Technology, Arcadia, CA	49 CFR part 172.203(c), 172.324	To authorize shipment of lab packs without writing the hazardous substance in parenthesis, as an additional description, on both the container and shipping document but to mark "RQ" in association with shipping name on manifest and to attach an inventory sheet to shipping papers (mode 1).
10244-N	BD Technology, Arcadia, CA	49 CFR part 172.200—172.203, 172.3, 172,300, 172.301, 173.1(b), 173.25(a)(2), part 173, subparts G and H.	To authorize shipment of overpacked multiple cylinders with the outer container and shipping document being marked with a generic description and an inventory sheet containing proper shipping names of the various compressed gases attached to the outer container and shipping papers. (mode 1).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10245-N	Sonoco Fibre Drum Inc., Lombard, IL	49 CFR part 173, subparts C, D, E, F and H.	To authorize manufacture, marking and sale of a non-DOT specification fibre drum similar to the DOT specification 21C fibre drum with top construction of plastic parts for those materials authorized for shipment in a DOT specification fibre drum (modes 1, 2, 3).
10246-N	Ciba-Geigy Corporation, Ardsley, NY	49 CFR part 173.359	To authorize shipment of organophosphorus pesticide, liquid, n.o.s., classed as a Class B poison in a non-DOT rotationally molded polyethylene tank of not over 117 gallons water capacity (mode 1).
10247-N	VICI Metronics, Santa Clara, CA	49 CFR part 173.4	To authorize shipment of permeation devices containing not over 5 grams of various hazardous materials—flammable and nonflammable compressed gases and Class A poisons; Class B poisons; various liquid which are both flammable and poison or flammable and corrosive (modes 1, 2, 3, 4, 5).
10248-N	Milan Box Corporation, Milan, TN	49 CFR part 173.1300, 173,510, part 173, subpart D.	To authorize manufacture, marking and sale of non-DOT specification plywood pallet boxes with a fitted 2 ply, 4 mil polyethylene inner bag for use in transporting flammable liquids and ORM materials (modes 1, 2, 3).
10249-N	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR part 173.273(a)	To authorize shipment of sulfur trioxide, stabilized, classed as corrosive material, in DOT specification 51 portable tanks (mode 2).

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 14, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-22195 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before October 4, 1989.

ADDRESS: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street SW., Washington, DC.

Application number	Applicant	Renewal of exemption
3004-X	Big Three Industries, Inc., Houston, TX.	3004
3004-X	Air Products and Chemicals, Inc., Allentown, PA.	3004
3569-X	Western Atlas International, Inc., Houston, TX.	3569
4453-X	Thermex Energy Corporation, Dallas, TX.	4453
4612-X	Aldrich Chemical Company, Inc., Milwaukee, WI.	4612
4850-X	Teledyne McCormick Selph, Hollister, CA.	4850
5112-X	Austin Powder Company, Cleveland, OH.	5112
5951-X	Van Waters & Rogers, Inc., Spartanburg, SC.	5951
5951-X	DPC Industries, Inc., Houston, TX.	5951
6016-X	S.J. Smith Welding Supply, Davenport, IA.	6016
6517-X	Coyne Cylinder Company, Huntsville, AL.	6517
6530-X	Linde Gases of the South, Inc., Houston, TX.	6530
6530-X	Liquid Air Corporation, Walnut Creek, CA.	6530
6530-X	FIBA Leasing Co./Mass Oxygen Equipment Co., Inc., Westboro, MA.	6530
6530-X	Big Three Industries, Inc., Houston, TX.	6530
6530-X	Linde Gases of The Midwest, Inc., Hillside, IL.	6530
6530-X	Linde Gases of The Mid-Atlantic, Moorestown, NJ.	6530
6530-X	Linde Gases of the West, Oakland, CA.	6530
6530-X	SOS Gases, Inc., Kearny, NJ	6530
6530-X	Scott Specialty Gases, Plumsteadville, PA.	6530
6530-X	Linde Gases of Florida, Inc., Tampa, FL.	6530
6530-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	6530
6530-X	Air Products and Chemicals, Inc., Allentown, PA.	6530
6530-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	6530
6530-X	UNIGAS, Inc., Ponce, PR	6530
6530-X	Linde Puerto Rico, Inc., Gurabo, PR.	6530
6530-X	Linde Gases of The Great Lakes, Inc., Cleveland, OH.	6530
6530-X	Linde Gases of New England, Inc., West Hartford, CT.	6530
6530-X	Linde Gases of The Southeast, Inc., Wilmington, NC.	6530
6589-X	International Safety Devices, Inc., Hesperia, CA.	6589
6651-X	Enthone, Incorporated, West Haven, CT.	6651

Application number	Applicant	Renewal of exemption
6651-X	Park Chemical Company, Detroit, MI.	6651
6765-X	Linde Gases of The South, Inc., Houston, TX.	6765
6765-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	6765
6765-X	Iwatani International Corporation of America, Fort Lee, NJ.	6765
6765-X	Linde Gases of The Mid-Atlantic, Morrestown, NJ.	6765
6765-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	6765
7052-X	The Foxboro Company, Foxboro, MA.	7052
7052-X	Eagle-Picher Industries, Inc., Joplin, MO.	7052
7052-X	Jet Propulsion Laboratory, Pasadena, CA.	7052
7280-X	U.S. Department of Defense, Falls Church, VA.	7280
7536-X	U.S. Department of Defense, Falls Church, VA.	7536
7542-X	Coyne Cylinder Company, Huntsville, AL.	7542
7549-X	ICI Americas Inc., Wilmington, DE.	7549
7595-X	American Cyanamid Company, Wayne, NJ.	7595
7638-X	Minnesota Valley Engineering, Inc., New Prague, NM.	7638
7654-X	Mallinckrodt, Inc., Paris, KY	7654
7694-X	BW/IP International, Inc., Van Nuys, CA.	7694
7694-X	Applied Companies, San Fernando, CA.	7694
7753-X	Stauffer Chemical Company, Shelton, CT.	7753
7823-X	Air Products and Chemicals, Inc., Allentown, PA.	7823
7915-X	U.S. Department of Defense, Falls Church, VA.	7915
7943-X	GPS Industries, City of Industry, CA.	7943
7943-X	All Pure Chemical Company, Inc., Tracy, CA.	7943
7943-X	Alstar Company, Tracy, CA	7943
7991-X	Burlington Northern Railroad Company, Overland Park, KS.	7991
8091-X	American Telephone and Telegraph Company, Greensboro, NC.	8091
8156-X	Liquid Air Corporation, Walnut Creek, CA.	8156
8156-X	Solkatronic Chemicals, Inc., Fairfield, NJ.	8156
8180-X	Liquid Carbonic Specialty Gas Corporation, Chicago, IL.	8180
8248-X	American Telephone and Telegraph Company, Greensboro, NC.	8248
8264-X	Hercules, Incorporated, Wilmington, DE.	8264
8265-X	Hercules, Incorporated, Wilmington, DE.	8265
8354-X	Arbel-Fauvet-Rail, Paris, France.	8354
8377-X	Teledyne McCormick Selph, Hollister, CA.	8377
8390-X	J.T. Baker, Inc., Phillipsburg, NJ.	8390
8390-X	Mallinckrodt, Inc., Paris, KY	8390
8519-X	Hoegh Ugland Auto Liners A/S, Oslo, Norway.	8519
8554-X	W.A. Murphy, Inc., El Monte, CA.	8554
8556-X	Linde Gases of the South, Inc., Houston, TX.	6556
8556-X	Linde Gases of The Mid-Atlantic, Moorestown, NJ.	6556
8556-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	8556
8556-X	Linde Gases of Southern California, Inc., Santa Ana, CA.	8556
8556-X	UNIGAS, Inc., Ponce, PR	8556
8556-X	Linde Puerto Rico, Inc., Guarbo, PR.	8556
8556-X	Linde Gases of Florida, Inc., Tampa, FL.	8556
8556-X	Linde Gases of the West, San Ramon, CA.	8556
8556-X	Linde Gases of New England, Inc., West Hartford, CT.	8556
8556-X	Linde Gases of the Southeast, Inc., Wilmington, NC.	8556
8567-X	Environmental Oil, Inc., Syracuse, NY.	8567
8720-X	Applied Companies, San Fernando, CA.	8720
8732-X	Delta Distributors, Inc., Longview, TX.	8732
8837-X	Fabricated Metals, Inc., San Leandro, CA.	8837
8938-X	Cryogenic Services, Inc., Canton, GA.	8938
8988-X	Baker Sand Control, Houston, TX.	8988
9011-X	Van Leer Containers, Inc., Chicago, IL.	9011
9052-X	Chemical Handling Equipment Company, Inc., Toledo, OH [1].	9052
9066-X	Mercedes-Benz of North America, Inc., Montvale, NJ.	9066
9164-X	Fabricated Metals, Inc., San Leandro, CA.	9164
9181-X	Honeywell, Inc., Horsham, PA	9181
9198-X	USDA-U.S. Department of Agriculture/Forest Service, Washington, DC.	9198
9198-X	U.S. Department of the Interior (DOI), Boise, ID.	9198
9256-X	U.S. Department of Defense, Falls Church, VA.	9256
9363-X	Columbia Astrophysics Laboratory, New York, NY.	9363
9393-X	Sexton Can Company, Inc., Cambridge, MA.	9393
9478-X	Systron Donner, Safety Systems Division, Concord, CA.	9478
9480-X	Liquid Carbonic Specialty Gas Corporation, Chicago, IL.	9480
9498-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	9498
9507-X	Liquid Air Corporation, Walnut Creek, CA.	9507
9513-X	American Cyanamid Company, Wayne, NJ.	9513
9552-X	IRECO, Incorporated, Salt Lake City, UT.	9552
9645-X	Bonar Plastics Ltd., Lindsay, Ontario, CN [2].	9645
9779-X	Unichem International, Inc., Hobbs, NM.	9779
9781-X	Jones Chemicals, Inc., LeRoy, NY.	9781
9789-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	9789
9804-X	Rotational Molding, Inc. (RMI), Gardena, CA.	9804
9827-X	Mobay Corporation, Kansas City, MO.	9827
9828-X	Mobay Corporation, Kansas City, MO.	9828
10003-X	Moover Group, Inc., Beatrice, NE [3].	10003
10199-X	BAJ, Ltd., Banwell, England	10199
10199-X	BAJ, Ltd., Banwell, England [4]	10199

[1] To authorize a variation in the test requirements for non-DOT specification polyethylene portable tanks.

[2] To authorize modification of ball value drainage feature on non-DOT specification polyethylene portable tanks containing certain flammable or corrosive liquids or an oxidizer.

[3] To authorize an optional permanently attached base assembly and a modification to the bottom outlet to accommodate new base on non-DOT steel drums for shipment of certain hazardous materials.

[4] To renew and add cargo-aircraft as an additional mode of transportation to the exemption.

Application number	Applicant	Parties to exemption
4453-P	W.A. Murphy, Inc., El Monte, CA.	4453
4850-P	ISC Technologies, Inc., Lancaster, PA [1].	4850
4850-P	Ferranti International Signal, Inc., Lancaster, PA.	4850
6971-P	Ultra Scientific, Inc., North Kingstown, RI.	6971
7052-P	Hoppecke Battery Systems, Inc., Butler, NJ.	7052
7052-P	FDK America, Inc., Englewood Cliffs, NJ.	7052
7052-P	Fuji Electrochemical Co., Ltd., Minato-Ku, Tokyo.	7052
7052-P	Multiplier Industries Corp., Mt. Kisco, NY.	7052
7052-P	Unitech Industries Inc., Scottsdale, AZ.	7052
7607-P	Advanced Sciences, Inc., Englewood, CO.	7607
7607-P	U.S. Environmental Protection Agency, Seattle, WA.	7607
7616-P	Denver & Rio Grande Western Railroad Company, Denver, CO.	7616
7774-P	Penwood Wireline, Inc., Houston, TX.	7774
7991-P	Jackson Jordan, Inc., Ludington, MI.	7991
8426-P	Gallighen, Inc., Ventura, CA	8426
8451-P	Martin Electronics, Inc., Perry, FL.	8451
8451-P	U.S. Department of the Interior, Pittsburgh, PA.	8451
8518-P	Gallighen, Inc., Ventura, CA	8518
9110-P	General Plastics and Chemicals Co., Natick, MA.	9110
9332-P	Johnson Matthey Company, West Chester, PA.	9332
9332-P	Chromalloy R & T Division, Orangeburg, NY.	9332
9607-P	Applied Laboratories, Inc., Columbus, IN.	9607
9607-P	Barrier Industries, Inc., Port Jervis, NY.	9607
9785-P	American President Lines, Ltd., Oakland, CA.	9785
9785-P	Bermuda Container Line, Newark, NJ.	9785
9785-P	Mitsui O.S.K. Lines (America) Inc., New York, NY.	9785
9785-P	Mitsui O.S.K. Lines, Ltd., Tokyo 107, Japan.	9785

Application number	Applicant	Parties to exemption
10091-P...	Bausch & Lomb Incorporated, Rochester, NY.	10091
10096-P...	Energia E. Industrias Aragonesas, S.A., Madrid, Spain.	10096
10171-P...	Eurotainer S.A., Paris, France	10171

[1] To authorize the additional mode of cargo-vessel to the exemption

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 14, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

Certified to be a true copy of the original.

[FR Doc. 89-22196 Filed 9-19-89; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 689; Ref: ATF O 1100.6C]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 19, Distilled Spirits Plants

Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.6B, Delegation Order—Delegation to the Associate Director (Compliance Operations) of authorities of the Director in 27 CFR part 19, Distilled Spirits Plants, dated July 12, 1984, is cancelled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to distilled spirits plants. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120-01, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To determine that bottles which are designed or intended for use as containers for distilled spirits for sale for beverage purposes adequately protect the revenue, under 27 CFR 19.11.

b. To prescribe all forms required by 27 CFR part 19, under 27 CFR 19.61.

c. To approve, pursuant to written applications, alternate methods or procedures, including alternate construction or equipment, in lieu of methods or procedures specifically prescribed in regulations, under 27 CFR 19.62.

d. To withdraw authorization of any alternate method or procedure or of any variation whenever the revenue is jeopardized or the effective administration of other regulations is hindered by the continuation of such authorization or variation, under 27 CFR 19.62.

e. To waive any regulatory provision of 26 U.S.C. chapter 51 or 27 CFR part 19 (except the filing of any bond or the payment of any tax provided for in 26 U.S.C chapter 51) for temporary pilot or experimental operations and to designate any plant for such operations, under 27 CFR 19.63.

f. To authorize the establishment and operation of experimental plants and to waive any provision of 26 U.S.C. chapter 51 or 27 CFR part 19 (other than 26 U.S.C. 5312, 27 CFR 19.65, 27 CFR 19.66, or the payment of any tax on spirits removed from such plants) to the extent necessary to achieve the purposes of 26 U.S.C. 5312(b), under 27 CFR 19.65.

g. To approve applications to establish experimental plants, to determine the form and penal sum of bonds to file with such applications, and to require the submission of additional information, under 27 CFR 19.66.

h. To determine that a chemical mixture containing spirits and produced as a by-product is nonpotable and to waive, pursuant to written applications from producers of nonpotable mixtures, any provision of 26 U.S.C. chapter 51 or 27 CFR part 19, under 27 CFR 19.67.

i. To authorize the carrying on of other businesses on plant premises, under 27 CFR 19.68.

j. To temporarily exempt any plant proprietor from any provision of the internal revenue laws or 27 CFR part 19 (except those requiring payment of tax), to meet requirements of the National Defense, under 27 CFR 19.70.

k. To authorize and approve experimental or research operations by scientific universities, colleges of learning, and institutions of scientific research; to waive any provision of 26 U.S.C. chapter 51 or 27 CFR part 19 (except 26 U.S.C. 5312, 27 CFR 19.71, or the payment of any tax on distilled spirits removed from any university, college, or institution) to the extent necessary to achieve the purposes of 26 U.S.C. 5312(a); and to require the filing of bonds and additional information, under 27 CFR 19.71.

l. To approve other methods, not specifically authorized in regulations, for the volumetric measurement of spirits or wines, under 27 CFR 19.91.

m. To approve all seals, locks, or other devices that are to be used on conveyances in which spirits are transferred in bond, withdrawn free of tax, or withdrawn without payment of tax, under 27 CFR 19.96(b)(1).

n. To approve the use of letter abbreviations of the name of a proprietor on security devices, under 27 CFR 19.96(d).

o. To approve the separations of the plant premises, provided they are in the same general location and no jeopardy to the revenue exists, under 27 CFR 19.132.

p. To approve, pursuant to written applications, the adoption by a successor of approved Form 5110.38, Formula for Distilled Spirits under the Federal Alcohol Administration Act, under 27 CFR 19.187.

q. To hold a hearing on appeal where the Regional Director has disapproved the person giving the bond, under 27 CFR 19.237.

r. To approve the use of locks which do not meet the specification, under 27 CFR 19.281(e).

s. To approve other methods, not specifically authorized in regulations, for determining the quantity of spirits produced, under 27 CFR 19.319(a).

t. To authorize the spirits content of chemicals to exceed 10 percent by volume and to approve methods for testing chemicals for spirits content, under 27 CFR 19.326.

u. To waive any of the label information requirements in 27 CFR 19.395 (except the kind of spirits), under 27 CFR 19.395.

v. To waive from the designation kind only as it relates to the term "diluted" on distilled spirits bottled below the minimum proof, for export, under 27 CFR 19.395.

w. To approve other devices, not specifically authorized in regulations, for measuring spirits and denaturants, under 27 CFR 19.454.

x. To approve conversion to other formulas, not specifically authorized in regulations, under 27 CFR 19.460(e).

y. To issue permits on Form 5150.33, Spirits for Use of the United States, to receive evidence of authority to sign for

the head of a department, independent bureau, or agency; and to cancel permits on Form 5150.33 (formerly Form 1444), under 27 CFR 19.538.

z. To authorize other means, not specifically authorized in regulations, for the disposal of excess spirits in the possession of a governmental agency, under 27 CFR 19.539.

aa. To authorize the use of other containers, not specifically authorized in regulations, and to prescribe the detail and manner in which such containers shall be constructed, protected, marked, and branded, under 27 CFR 19.581.

bb. To act on applications for a designation for spirits, under 27 CFR 19.597(c).

cc. To authorize the use of additional information on caution labels affixed to containers of completely denatured alcohol, under 27 CFR 19.604.

dd. To approve, pursuant to applications submitted on Form 5100.31, Application for and Certification of Label Approval under FAA Act, liquor bottles which are found to meet the requirements of 27 CFR part 5, to be distinctive, to be suitable for the intended purpose, not to jeopardize the revenue, and not to be deceptive to consumers, and to request actual bottles or authentic models thereof, under 27 CFR 19.633.

ee. To disapprove for use as a liquor bottle any bottle determined to be deceptive, under 27 CFR 19.637.

ff. To require or prohibit, as necessary to preclude consumer deception, the State of distillation to be shown on labels and to permit other labeling necessary to preclude deception concerning the actual State of distillation, under 27 CFR 19.643.

gg. To approve the use of or require discontinuance of the use of modified forms, under 27 CFR 19.724(a) and 27 CFR 19.724(b).

hh. To approve alternate method for determining amount of spirits used as ingredients of other distilled spirits products, under 27 CFR 19.778.

ii. To approve pursuant to written application, alternate methods or procedures for fuel alcohol, under 27 CFR 19.903.

jj. To withdraw authorization of any alternate methods or procedures for fuel alcohol, under 27 CFR 19.903.

kk. To approve the use of other devices to determine the quantity of fuel alcohol, under 27 CFR 19.980(a).

ll. To determine and authorize for use materials for rendering spirits unfit for beverage use, under 27 CFR 19.1005.

mm. To approve the use of other materials, not specifically authorized in regulations, to render spirits unfit for beverage use and to require submission of a sample of the proposed substitute material, under 27 CFR 19.1006.

5. *Coordination with other offices.* a. The authority delegated under paragraph 4v of this order shall be carried out in coordination with the Industry Compliance Division, Import-Export Branch.

b. The authority delegated under paragraphs 4h, 4t, 4x, 4ll, and 4mm of this order shall be carried out in coordination with the Comptroller, Director of Laboratory Services, Chief, Alcohol Tobacco Laboratory.

6. *Redelegation.* a. The authority in paragraph 4v above may be redelegated to personnel in Bureau Headquarters not lower than the position of division chief.

b. The authorities in paragraphs 4b through 4o, 4r through 4t, 4w, 4x, 4aa through 4cc, 4gg through 4jj, 4kk, and 4ll above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

c. The authorities in paragraphs 4a, 4p, 4u, 4y, 4z, 4dd through 4ff, and 4mm above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

d. The authority in paragraph 4c above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, applications for alternate methods or procedures which are *identical* to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of chief, technical services.

e. The authorities in paragraphs 4j, 4n, and 4z above may be redelegated to regional directors (compliance), who may redelegate these authorities to personnel not lower than the position of chief, technical services or area supervisor.

f. The authority in paragraph 4d and 4jj above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures and emergency variations which were approved at the regional level. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of chief, technical services.

g. The authorities in paragraphs 4f, 4g, 4k, 4mm, 4ii and 4jj, above may be redelegated to regional directors (compliance) to approve the establishment of experimental plants and of experimental or research operations by scientific universities, college of learning, and institutions of scientific research dealing in *alcohol fuel only.* Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

h. The authorities in paragraphs 4i, 4l, 4m, 4r, 4s, 4w, 4aa, and 4kk, above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, applications which are *identical* to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

i. The authority in paragraph 4q above may not be redelegated.

7. *For Information Contact.* Colleen M. Then, Distilled Spirits and Tobacco Branch, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202) 566-7531.

8. *Effective Date.* This delegation order becomes effective on September 20, 1989.

Approved: September 8, 1989.

Stephen E. Higgins,

Director.

[FR Doc. 89-22124 Filed 9-19-89; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 181
Wednesday, September 20, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m. Tuesday, September 26, 1989.

PLACE: Conference Room 8A, B, C, Eighth Floor, 800 Independence Avenue SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Aviation Accident Report: Delta Air Lines, Inc., Boeing 727-232, Flight 1141, Dallas/Fort Worth, Texas, August 31, 1988

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

September 18, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89-22316 Filed 9-18-89; 1:00 pm]

BILLING CODE 7533-01-M

Corrections

Federal Register
Vol. 54, No. 181
Wednesday, September 20, 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 ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-80-118]

Energy Conservation Program for Consumer Products; Test Procedures for Refrigerators, Refrigerator-Freezers and Freezers

Correction

In rule document 89-20537 beginning on page 36238 in the issue of Thursday, August 31, 1989, make the following correction:

On page 36238, in the first column, the **EFFECTIVE DATE** should read "February 27, 1990".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES89-32-000, et al.]

Utilicorp United Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 89-18952 beginning on page 33268 in the issue of Monday, August 14, 1989 make the following correction:

On page 33270, in the first column, under **17. TUCSON ELECTRIC POWER CO.**, the first line should read "[Docket No. ER89-471-000]".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT88-24-005]

Northern Natural Gas Co.; Division of Enron Corp.; Proposed Changes in FERC Gas Tariff Pursuant to Order No. 497

Correction

In notice document 89-18956 appearing on page 33277 in the issue of Monday, August 14, 1989, the heading was incomplete and should read as set forth above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL-UST-3; 3494-9]

Underground Storage Tanks Containing Petroleum—Financial Responsibility Requirements and State Program Approval Objective; Correction

Correction

In rule document 89-29162 beginning on page 51273 in the issue of Wednesday, December 21, 1988, make the following corrections:

§ 281.37 [Corrected]

1. On page 51274, in the first column, the heading that reads "**§ 280.37 [Amended]**" should read "**§ 281.37 [Amended]**".

2. On the same page, in amendatory instruction 8., in the first line "§ 280.37(b)" should read "§ 281.37(b)".

BILLING CODE 1505-01-D

POSTAL RATE COMMISSION

[Docket No. A89-12; Order No. 837]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Correction

In notice document 89-19610 appearing on page 34635 in the issue of Monday, August 21, 1989, the heading was incomplete and should read as set forth above.

BILLING CODE 1505-01-D

federal register

Wednesday
September 20, 1989

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171 et al.

Transportation of Hazardous Materials; Miscellaneous Amendments

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 Through 176, 178 and 179

[Docket No. HM-166W; Amdt Nos. 171-104, 172-118, 173-216, 174-66, 175-44, 176-29, 177-72, 178-90, and 179-42

RIN: 2137-AA44

Transportation of Hazardous Materials; Miscellaneous Amendments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations (HMR) a number of changes based on rulemaking petitions from industry and RSPA's own initiative. This action is necessary to update the regulations, to eliminate the need for certain DOT approvals, and to reduce RSPA's backlog of rulemaking petitions. The amendments in this rulemaking will reduce government regulation and paperwork, and clarify existing regulations.

EFFECTIVE DATE: November 15, 1989. However, compliance with the regulations, as amended herein, is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Morris, Standards Division, DHM-12, Office of Hazardous Materials Transportation, U S. Department of Transportation, Washington, DC 20590. (202) 366-4488.

SUPPLEMENTARY INFORMATION: On September 19, 1988, RSPA published a notice of proposed rulemaking under Docket No. HM-166W (Notice No. 88-5; 53 FR 36410), which proposed a number of miscellaneous amendments to the HMR. Notice No. 88-5 included a brief statement concerning each proposal and invited public comment. The interested reader is referred to Notice No. 88-5 for additional background information.

Twenty-three commenters responded to Notice No. 88-5. While a number of commenters expressed support for various proposals and offered suggestions for specific changes, several commenters expressed their opposition to certain proposals. Listed below is a section-by-section summary of the changes and a discussion of comments received.

A. Part 171

In § 171.7, the following changes are made:

1. In paragraph (c)(4), the address for the Bureau of Explosives, Association of American Railroads (AAR) is revised;

2. Paragraph (c)(5), containing an outdated address for AAR is updated;

3. In paragraph (c)(19), the current address for The Fertilizer Institute is revised;

4. Paragraph (d)(2) is amended by updating the AAR Specification for Tank Cars from the 1985 edition to the 1988 edition;

5. Paragraph (d)(7)(iv) is amended by revising the title of a Bureau of Explosives' publication; and

6. Paragraph (d)(17) is amended by updating the International Maritime Dangerous Goods Code (IMDG Code) to the latest 1988 edition.

7. Paragraph (d)(33) is added to reference The Fertilizer Institute's publication. "Definition and Test Procedures for Ammonium Nitrate Fertilizer", dated August 1984. References to the 1971 edition of this publication which appeared in §§ 173.182 and 174.510 are removed.

In § 171.8, the definition for "Atmospheric gases" is amended to include "air." Also, the gas "argon" was inadvertently omitted from the definition in the notice. This oversight is corrected.

In § 171.12. the last sentence of paragraph (b) and the penultimate sentence in paragraph (d) are revised to allow stowage and segregation of hazardous materials in freight containers in conformance with the requirements of the IMDG Code, when transported by motor vehicle or railcar. These changes are made for consistency with a similar change made to § 176.11 in this final rule, concerning transportation by vessel.

B. Part 172

In § 172.101. the Hazardous Materials Table is amended as follows:

1. The entry "1,1-Difluoroethylene *(R-1132A)*" is added. The appropriate refrigerant "R" number is added for consistency with other refrigerant gas entries appearing in the Table, as suggested by a commenter.

2. The entry "Empty cartridge case, primed" is removed.

3. The hazard class for "Hydrogen selenide" is changed from "Flammable gas" to "Poison A" and a restriction regarding stowage on a vessel is added in Column 7(c).

4. The entry "Life rafts, inflatable" is revised to read"Life-saving appliances, self-inflating" with the identification number "UN 2990," for consistency with the description in international regulations for transportation by aircraft.

5. The prefix "NA" for the entry "Paint related material" is revised to read "UN" 1263, for consistency with the international regulations. This change was proposed in Docket HM-181.

6. The entry for "Sulfur, molten" is revised to provide for an alternative spelling of the description as "Sulphur, molten".

7. A cross reference, "Perchloroethylene *see* Tetrachloroethylene" is added to clarify that either name may be used as a proper shipping name. "Perchloroethylene" is commonly used domestically, and "Tetrachloroethylene" is used internationally.

8. The italicized entry "*Tetraethylammonium perchlorate (dry)*" with the word "forbidden" is removed. A new entry is added to allow shipment of the material as a flammable solid.

9. The entry "Vinyl methyl ether" is revised to include a reference to "§ 173.315" in column 5(b).

Section 172.504(c) is revised to clarify that a rail car does not have to be placarded when transporting freight containers or transport vehicles that do not require placarding.

C. Part 173

Section 173.5(a)(2) is revised by increasing the capacity of inside packagings for liquid agricultural chemicals from 1-gallon to 2½ gallons when offered for transportation in less-than-case-lot quantities.

Section 173.25(c) is amended by deleting the words "Poison B material" in order to clarify that a hazardous material labeled POISON is subject to the restrictions of this section, even if it meets the definition for another hazard class.

In § 173.31, the following changes are made:

1. Paragraph (a)(7) is removed and reserved.

2. Paragraphs (a)(5) and (a)(6) are revised to reflect the latest changes regarding coupler vertical restraint systems on tank cars.

3. Two commenters expressed opposing views on the provision in proposed new paragraph (c)(14) for checking a tank car's excess flow valve for tightness at the time of retest. One commenter contended the proposal implies that all tank car tank valves having threaded seats must be tightened with a wrench. The other commenter believed that any time a valve over a seat is removed, the valve seats should be tightened with a 24-inch wrench or longer. RSPA and the Federal Railroad Administration (FRA) believe that the

requirement, as written, allows for the tightening of the valve seats by whatever means necessary to accomplish the job, and imposes little or no burden on tank car repairers or shippers. Therefore, the provision is adopted as proposed.

4. A new paragraph (d)(10) is added to permit the shipment of certain multi-unit tank car tanks, under specified conditions, after expiration of the retest date.

In the Table following the introductory paragraph in § 173.34 (e), the entry "DOT 3A, 3AA, 3AL" is revised to read "DOT 3A, 3AA" and a separate entry is added for "DOT 3AL" to clarify that DOT 3AL cylinders must be retested every 5 years.

Section 173.115 is revised to permit certain alcohol solutions to be reclassified as combustible liquids, even when they contain ORM-E materials, and to indicate that solutions which are hazardous substances and hazardous wastes are subject to regulation in all instances.

Section 173.118(a) is revised to exclude from consideration constituents in flammable liquids that are classed as an ORM-E.

Section 173.118a(b)(7) is revised to clarify that combustible liquids in tank cars are subject to the unloading requirements in § 174.67.

In § 173.182, the footnote in paragraph (a) is revised by removing the date referenced for The Fertilizer Institute's publication. The August 1984 edition of the publication is being incorporated by reference in § 171.7 of this final rule.

It was discovered that § 173.245(a)(29) which proposed the authorization of monoethanolamine; *primary amyl alcohol* for MC 303 cargo tanks made of aluminum, was in error. The exemption, DOT–E 8732 erroneously prescribed the MC 306 and MC 303 cargo tanks made of aluminum or steel as authorized packagings for monoethanolamine; *primary amyl alcohol.* We have no knowledge of any MC 303 cargo tanks made of aluminum which are used to transport monoethanolamine; *primary amyl alcohol.* Therefore, § 173.245 (a)(29) remains unchanged.

Section 173.249a(d)(3) is adopted as proposed. One commenter objected to the use of nonspecification packagings for certain corrosives that contain a high percentage of acetic acid, citing an incident involving the spillage of coal tar dye from an opened-head fiber drum, which overturned and the lid came off. The commenter believed that if the drum had been a DOT specification fiber drum with an inner liner, the spillage would not have occurred. However, the commenter provided no data to indicate that a deficiency in the container was the cause of the incident, and RSPA does not believe withdrawal of the proposed change is warranted.

RSPA has adopted the proposed change to § 173.250 concerning the shipment of motor vehicles equipped with electric storage batteries by vessel. However, the change is made to paragraph (b) instead of paragraph (a) as proposed in the notice. See discussion in this preamble to § 176.905(k).

It was proposed to revise § 173.262 (b)(1), (b)(2) and (b)(3), to prohibit the transportation of Hydrobromic acid greater than 49 percent in polyethylene packagings. The proposed change was based on data received by RSPA that problems with permeation have been experienced. However, a commenter requested that these provisions be retained and submitted substantial data which support the continued use of polyethylene packagings for shipping Hydrobromic acid. Provisions authorizing the use of polyethylene packagings are retained, but a provision is added to require that these packages must satisfy the requirements in § 173.24(d) pertaining to permeability prior to the first shipment.

Section 173.264(b)(1) is revised to authorize the use of DOT 3BN cylinders for the transportation of Hydrofluoric acid, anhydrous (hydrogen fluoride).

Section 173.301(d)(3) is amended by authorizing "1,1-Difluoroethylene" in manifolded cylinders. A commenter, in responding to proposed § 173.301(1), stated that the proposed requirement for mounting DOT 3AX, 3AAX, and 3T cylinders on a motor vehicle or in ISO frames for transportation is overly-restrictive, and that there is no reason for requiring only ISO frames. RSPA agrees and has revised paragraph (1) to authorize the cylinders to be transported in ISO or other frames of equivalent structural integrity.

In § 173.304, the following changes are made:

1. The Table in paragraph (a)(2) is amended by adding an entry for "1,1 Difluoroethylene" in alphabetical sequence; a new Note 12 is added in the entry for "Insecticide, liquefied gas"; and a new Note 13 is added in the entry for "Refrigerant gas, n.o.s., or Dispersant gas, n.o.s."

2. Paragraph (b) is amended by adding "1,1-Difluoroethylene" to follow "carbon dioxide".

In the Table in § 173.314(c), the entry for "Bromotrifluoromethane" is corrected by reinstating the DOT–105A500W tank car which was deleted inadvertently under another rulemaking.

In the Table in § 173.315(a)(1), the entries "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid" are corrected to reference paragraph (c)(1) instead of paragraph (c).

An editorial correction is made to Table 4 in § 173.417(b)(1).

D. Part 174

Section 174.510 is revised by removing the data referenced for The Fertilizer Institute's publication. The August 1984 edition of the publication is being incorporated by reference in § 171.7 of this final rule.

E. Part 175

RSPA proposed to include in § 175.10(a)(5) an exception for persons who are traveling under the provisions of 14 CFR 108.11 (a) and (b), and are carrying small arms ammunition, from having to comply with the specified requirements. This proposal is adopted with a minor change. Two commenters suggested that RSPA also should permit, for persons who are subject to § 175.10(a)(5), the use of a specially designed packaging for small amounts of ammunition when carried in baggage. RSPA agrees with the commenters and has adopted their suggestion. In § 175.10(a)(7), the reference to "135.114" is revised to read "135.91".

F. Part 176

Section 176.11(a) is revised to authorize hazardous materials to be stowed and segregated in accordance with the IMDG Code.

A provision on gravity type tanks in § 176.340(a)(2) is removed. Gravity type tanks approved under 46 CFR 98.35 were no longer authorized for use after October 1, 1984.

Three persons commented on the proposal concerning nonspecification portable tanks in new § 176.340 (a)(4) and (b), one in support and two opposed. The opposing commenters criticized the system under which the nonspecification portable tanks would be built and tested, and recommended instead that such construction and testing be closely monitored by the United States Coast Guard (USCG). RSPA and USCG do not agree with these comments. To require such procedures for the nonspecification portable tanks in question would create an additional administrative burden, paperwork burden, and a time delay on tank manufacturers and the government. The proposed nonspecification portable tanks are similar to DOT 57 portable tanks, with the exception of having a larger rated capacity, vibration testing,

and marking requirements. The DOT 57 specification authorizes manufacturers to certify portable tanks as conforming to the specification. DOT 57 portable tanks are authorized to transport flammable liquids and other hazardous materials. The nonspecification portable tanks, although similar to a DOT 57, are authorized to transport combustible liquids only. RSPA and USCG believe that more stringent requirements for these nonspecification portable tanks, which are used for combustible liquids only, are unwarranted. For this same reason, the proposed requirement that owners retain a copy of the manufacturer's data report during the time the tank is in service is removed. However, RSPA and USCG believe that it would be in the best interest of the tank manufacturers or the owners of these tanks to retain data pertinent to the manufacture of the nonspecification portable tanks.

One commenter objected to the proposed revision of § 176.905(k) on the grounds that requiring the batteries in containerized motor vehicles to be disconnected would be costly and lead to possible damage to the vehicles. RSPA does not agree with this comment. Existing § 176.905(c) already requires motor vehicles, whether containerized or not, to have their batteries disconnected when stowed below deck. Therefore, the revision would apply only to motor vehicles carried in containers on deck. The reason for disconnecting the batteries in a hold or compartment below deck is to reduce the possibility of an accidental spark in a potentially explosive atmosphere. Such an atmosphere could also develop in the close confines of an unventilated freight container (a warning sign to this effect is required by § 176.905(k)). In the interest of eliminating a possible fire hazard on board vessels, § 176.905(k) is adopted as proposed.

G. Part 178

One commenter pointed out that the clarification of § 178.39–5 significantly impacts the DOT 3BN specification, to the extent that nickel cylinders could no longer be manufactured. This was not RSPA's intention. The provision is revised in the final rule.

The Tables in §§ 178.224–1(a)(1) and 178.224–2(c) are amended by increasing the maximum capacity of DOT–21C fiber drums from 55 gallons to 75 gallons for drums having a net weight of not over 115 pounds and 250 pounds respectively. Plastic heads are authorized for certain drums. Two typographical errors noted in the Table in § 178.224–1(a)(1) are also corrected.

Proposed § 178.251–7(a) would have required that the certification plate on new DOT 57 portable tanks be marked "Leakage test date" instead of "Original test date". A commenter suggested that to prevent additional costs to manufacturers, RSPA should allow manufacturers to mark either "Original test date" or "leakage test date" on tanks. RSPA agrees with the commenter and has provided for either entry. In either case, the test date marked on a tank must be the date of the leakage test specified in § 178.253–5(b).

H. Part 179

Section 179.14 is revised to reflect the latest changes regarding the coupler vertical restraint systems on tank cars.

Section 179.100–13(d) is revised to clarify the function of excess flow valves in tank cars.

Except for a typographical error, § 179.100–15 is adopted as proposed.

RSPA received no objections to the proposed change to § 179.100–23(c) to authorize the use of an additional head shield design. The provision is adopted as proposed.

In keeping with the Association of American Railroads' request to reflect the latest changes concerning couplers on tank cars, § 179.105–6 is removed and reserved.

Four commenters expressed their concerns that requirements for safety vent closures, as proposed in § 179.200–18(b)(3), may be overly restrictive. RSPA and FRA agreed with the commenters, and have revised the provision. The other changes to 179.200–18 (b) and (c) are adopted. Several typographical errors appearing in the section are also corrected.

Section 179.201–1(a) is amended by adding references to §§ 179.202–8, 179.202–11, and 179.202–16 under the "Special references" column for DOT 111A60W2 tank cars.

In § 179.203–1(c), the reference to "§ 173.8" is amended to "§ 171.12a". In § 179.203–1(d), the reference to "§ 173.9" is amended to read "§ 171.12a".

In § 179.300–7(a), the introductory text and the Table are amended to authorize the use of stainless steel for fabrication of class DOT 106A and 110A–W tank car tanks.

In Part 179, the reference "§ 179.105–6" is removed and replaced with the reference of "§ 179.14" in certain sections.

Administrative notices

I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Furthermore, in view of the type of changes herein, the RSPA has further determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) will not affect not-for profit enterprises, or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*) A regulatory evaluation is not considered necessary because the anticipated impact is minimal. I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on the States, in the Federal-State relationship or the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications, as defined in Executive Order 12612.

The following list of Federal Register Thesaurus of Indexing Terms apply to this rulemaking:

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions, Incorporation by reference.

49 CFR Part 172

Hazardous materials transportation, Labeling, Packagings and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 174

Hazardous materials transportation, Rail carriers, Railroad safety.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Tank cars.

PART 171—GENERAL INFORMATION—REGULATIONS AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR part 1, unless otherwise noted.

2. In § 171.7, paragraph (d)(33) is added, and paragraphs (c)(4), (c) (5), (c)(19), (d)(2), (d)(7)(iv), and (d)(17) are revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(4) Bureau of Explosives: Hazardous Materials Systems (Bureau of Explosives) Association of American Railroads, American Railroads Building, 50 F Street, NW., Washington, DC 20001.

(5) AAR: Association of American Railroads, American Railroads Building, 50 F Street NW., Washington, DC 20001.

* * * * *

(19) TFI: The Fertilizer Institute, 501 Second Street NE., Washington, DC, 20002.

* * * * *

(d) * * *

(2) AAR's publication, "Specifications for Tank Cars", Specification M–1002, 1988 edition.

(7) * * *

(iv) Bureau of Explosive's publication, "Emergency Handling of Hazardous Materials in Surface Transportation", dated February 1987.

* * * * *

(17) International Maritime Organization's publication, "International Maritime Dangerous Goods Code" (IMDG Code), 1988 Consolidated Edition.

* * * * *

(33) The Fertilizer Institute's publication, "Definition and Test Procedures for Ammonium Nitrate Fertilizer", dated August 1984.

* * * * *

3. In § 171.8 the definition for "Atmospheric gases" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

"Atmospheric gases" means air, nitrogen, oxygen, argon, krypton, neon and xenon.

* * * * *

3a. In § 171.12, in paragraph (b), the words "In addition—" are added to the end of the current paragraph, new paragraphs (b)(1) and (b)(2) are added, and paragraph (d), is revised to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) * * * In addition—

(1) An appropriate shipping name specified for a material in § 172.102 of this subchapter may be substituted for its proper shipping name in § 172.101 of this subchapter (subject to the conditions and limitations of this paragraph and § 172.102 of this subchapter) if all or a portion of the transportation of the material is by vessel; and

(2) A hazardous material may be stowed and segregated in freight containers in conformance with the IMDG Code, when transported by motor vehicle or rail car, if a portion of the transportation of the material is by vessel.

* * * * *

(d) Section 171.2 notwithstanding, a hazardous material (other than Class A or B explosives or radioactive materials) being imported into or exported from the United States or passing through the United States in the course of being shipped between places outside the United States may be offered and accepted for transportation and transported by motor vehicle within a single port area (including contiguous harbors) when packaged, marked, classed, labeled, stowed and segregated in accordance with the IMDG Code, if the hazardous material is offered and accepted in accordance with the requirements of Subparts C and F of part 172 of this subchapter pertaining to shipping papers and placarding (See § 176.11 of this subchapter for exceptions applicable to vessels.)

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

4. The authority citation for part 172 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1, unless otherwise noted.

5. In § 172.101, the Hazardous Materials Table is amended by removing, adding, or revising, as indicated, the following entries:

§ 172.101 Hazardous materials table.

+/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
(1)	(2)	(3)	(3A)	(4)	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
	REMOVE										
	Empty cartridge case, primed.	Class C explosive.		Explosive C	None	173.107	50 pounds	150 pounds	1,3	1,3	
	Tetraethylammonium perchlorate (dry).	Forbidden									
	ADD										
A	1,1-Difluoroethylene (R–1132A).	Flammable gas.	UN 1959	Flammable gas.	173.306	173.304	Forbidden	300 pounds.	1,2	5	Stow away from living quarters.
	Life-saving appliances, self-inflating.	ORM–C	UN 2990	None	None	173.906	1 per inaccessible cargo compartment.	No limit	1,2	1,2	
	Perchloroethylene *See* Tetrachloroethylene.		NA 1897								
	Tetraethylammonium perchlorate (dry).	Flammable solid.	UN 1325	Flammable solid.	173.153	173.154	25 pounds	25 pounds	1,2	1,2	

+/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
(1)	REVISE (2)	(3)	(3A)	(4)	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
+	Hydrogen selenide	Poison A	UN 2202	Poison gas & Flammable gas.	None	173.328	Forbidden	Forbidden	1	5	Stow away from living quarters.
	Paint related material.	Flammable liquid.	UN 1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons			
	Sulfur, molten *or* Sulphur, molten.	ORM-C	UN 2448	None	173.505	173.1080	Forbidden	Forbidden	1	1	Stow away from oxidizers and living quarters.
	Vinly methyl ether	Flammable gas.	UN 1087	Flammable gas.	173.306	173.304 173.314 173.315	Forbidden	20 pounds	1,2	1	Stow away from living quarters.

6. In § 172.504, paragraph (c) is revised to read as follows:

§ 172.504 General placarding requirements.

* * * * *

(c) Except for transport vehicles and freight containers subject to § 172.505, portable tanks, cargo tanks, tank cars, or transportation by aircraft or vessel, placards for hazardous materials covered by Table 2 are not required on—

(1) A transport vehicle or freight container which contains less than 1000 pounds (453.6 kilograms) aggregate gross weight of hazardous materials covered by Table 2; or

(2) A rail car loaded with transport vehicles or freight containers, none of which is required to be placarded.

The exceptions provided in this paragraph do not prohibit the display of placards in the manner prescribed in this subpart, if not otherwise prohibited (see § 172.502), on transport vehicles or freight containers which are not required to be placarded.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

7. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

8. In § 173.5, paragraph (a)(2) is revised to read as follows:

§ 173.5 Agricultural operations.

(a) * * *

(2) Each inside packaging does not exceed 2½ gallons capacity for liquids or 25 pounds for dry materials.

* * * * *

9. In § 173.25, the introductory text to paragraph (c) is revised to read as follows:

§ 173.25 Authorized packages and overpacks.

* * * * *

(c) Hazardous materials which are required to be labeled POISON, may be transported in the same motor vehicle with material that is marked or known to be foodstuffs, feed or any edible material intended for consumption by humans or animals provided the hazardous material is marked, labeled, and packaged in accordance with this subchapter, conforms to the requirements of paragraph (a) of this section and is overpacked as specified in § 177.841(e) or is in an overpack meeting the following requirements:

* * * * *

10. In § 173.31, paragraph (a)(7) is removed and reserved, paragraphs (a)(5) and (a)(6) are revised, and paragraphs (c)(14) and (d)(10) are added to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(5) Each DOT specification tank car shall be equipped with a coupler vertical restraint system that meets the requirements of § 179.14 of this subchapter.

(6) Effective November 15, 1990, each non-specification tank car used for the transportation of hazardous materials shall be equipped with a coupler vertical restraint system that meets the requirements of § 179.14 of this subchapter.

(7) [Reserved]

* * * * *

(c) * * *

(14) Excess flow valves having threaded seats must be checked for tightness and tightened at the time of each tank retest or safety relief valve retest.

(d) * * *

(10) A class DOT 106A or 110A tank car tank (§§ 179.300, 179.301, 179.302 of this subchapter) used exclusively for transportation of non-corrosive gases (as listed in the table in § 173.34(e)(10)), for which the retest has become due, may not be filled and shipped until it has been properly tested. However, tanks filled prior to the expiration of the retest date may be shipped on a one-time basis.

* * * * *

§ 173.34 [Amended]

11. In the Table which follows the introductory text in § 173.34(e), the entry, "DOT–3A, 3AA, 3AL" is removed and new entries for DOT–3A, 3AA and DOT–3AL are added to read as follows:

Specification under which cylinder was made	Minimum retest pressure (p.s.i.)	Retest period (years)
DOT–3A, 3AA	5/3 times service pressure, except noncorrosive service (see § 173.34 (e)(10))	5 or 10 (see § 173.34 (e)(11), (e)(14), and (e)(15)).
DOT–3AL	5/3 times service pressure	5.

12. In § 173.115, paragraphs (b)(1), (b)(2)(i), and (b)(2)(ii) are revised to read as follows:

§ 173.115 Flammable combustible, and pyrophoric liquids; definitions.

* * * * *

(b) *Combustible liquid.* (1) For the purposes of this subchapter, a combustible liquid is defined as any liquid that does not meet the definition

of any other hazard class defined in this subchapter, other than ORM–E, and which has a flash point at or above 100 °F. (37.8 °C.) and below 200 °F. (93.3 °C.) Notwithstanding this definition, a mixture having one component or more with a flash point at 200 °F. (93.3 °C.) or higher, that makes up at least 99 percent of the total volume of the mixture, is not subject to the requirements of this subchapter.

(2) * * *

(i) An aqueous solution containing 24 percent or less alcohol by volume is considered to have a flash point of no less than 100 °F (37.8 °C.) if the remainder of the solution contains no material (other than an ORM–E) that is subject to this subchapter.

(ii) An aqueous solution containing 24 percent or less alcohol by volume is not subject to the requirements of this subchapter if it is not a hazardous substance or a hazardous waste and contains no less that 50 percent water and no material (other than alcohol) which is subject to this subchapter.

* * * * *

13. In § 173.118, the first sentence in paragraph (a) is revised to read as follows:

§ 173.118 Limited quantities of flammable liquids.

(a) Limited quantities of flammable liquids that do not meet the definition of another hazard class defined in this subchapter (other than ORM–E), and for which exceptions are permitted as noted by reference to this section in § 172.101 of this subchapter, are excepted from labeling (except when offered for transportation by air) and specification packaging requirements of this subchapter when packaged according to the following paragraphs. * * *

* * * * *

14. In § 173.118a, paragraph (b)(7) is revised to read as follows:

§ 173.118a Exceptions for combustible liquids.

* * * * *

(b) * * *

(7) The requirements of §§ 173.1, 173.3, 173.24, 173.29, 173 30, 173.31, 174.67 and 177.804 of this subchapter.

15. In § 173.182, footnote 1 is amended by removing the phrase "dated May 7, 1971".

16. In § 173.249a, paragraph (d)(3) is revised to read as follows:

§ 173.249a Cleaning compound, liquid; coal tar dye, liquid; dye intermediate liquid; mining reagent, liquid; and textile treating compound mixture, liquid.

* * * * *

(d) * * *

(3) Removable (open) head or tight-head fiber drum lined or coated on the inside with a plastic material, not over 55-gallon capacity. Not authorized for shipment by aircraft.

* * * * *

17. In § 173.250, paragraph (b) is revised to read as follows:

§ 173.250 Automobiles, other self-propelled vehicles, engines or other mechanical apparatus.

* * * * *

(b) For transportation by aircraft or vessel the following provisions apply:

(1) For transportation by passenger-carrying aircraft, wheelchairs equipped with wet electric storage batteries must be shipped as prescribed in § 175.10 of this subchapter.

(2) For transportation by vessel, the requirements in § 176.905 apply.

* * * * *

18. In § 173.262, a sentence is added to paragraphs (b)(1), (b)(2), and (b)(3), to read as follows:

§ 173.262 Hydrobromic acid.

* * * * *

(b) * * *

(1) * * * The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(2) * * * The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

(3) * * * The shipper shall assure conformance with the requirements of § 173.24(d) of this part prior to first shipment.

* * * * *

§ 173.264 [Amended]

19. In § 173 264, the introductory text of paragraph (b)(1) is amended by adding "3BN," immediately after "3B," and adding "178.39," immediately after "173.38,".

20. In § 173.301, the first sentence in paragraph (d)(3) is amended by adding "1,1-Difluoroethylene" immediately after the word "gases:" and in paragraph (l) (1) the phrase "or framework" is added immediately after the word "vehicle". Also, the introductory text of paragraph (l) is revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(l) Specifications 3AX, 3AAX, and 3T cylinders are authorized for transportation only when horizontally mounted on a motor vehicle or in an ISO framework or other framework of equivalent structural integrity. Cylinders may be transported in COFC or TOFC service only under conditions approved by the Associate Administrator for Safety, Federal Railroad Administration. Cylinder valves and safety devices must be protected as follows:

* * * * *

§ 173.304 [Amended]

21. In § 173.304, paragraph (b) is amended by adding "1,1-Difluorethylene (R–1132A)," immediately following "carbon dioxide,"; and paragraph (a)(2) Table is amended by adding an entry for "1,1-Difluoroethylene (R–1132A)" in alphabetical sequence, revising the entries for "Insecticide, liquefied gas" and "Refrigerant gas, n.o.s. or Dispersant gas, n.o s.". and adding Notes 12 and 13 following the Table, to read as follows:

Kind of gas	Maximum permitted filling density (percent) (See Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34(a), (b), § 173.301(i) (See notes following table).
*	*	*
1,1-Difluoroethylene (R–1132A)	73	DOT–3A2200, DOT–3AA2200, DOT–3AX2200, DOT–3AAX2200, DOT–3T2200, DOT–39.
*	*	*
Insecticide, liquefied gas (See Notes 8 and 12).	Not liquid full at 130 °F	DOT–3A300; DOT–3AA300; DOT–3B300; DOT–4B300; DOT–4BA300; DOT–4BW300; DOT–9; DOT–40; DOT–41; DOT–3E1800.
*	*	*

Kind of gas	Maximum permitted filling density (percent) (See Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34(a), (b), § 173.301(i) (See notes following table).
Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. (see Notes 8 and 13).	Not liquid full at 130 °F	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-3E1800; DOT-4A240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4E240; DOT-9; DOT-39; and DOT-3AL240.

Note 1: The "filling density" is hereby defined as the percent ratio of the weight of gas in a container to the weight of water that the container will hold at 60 °F. (1 lb of water=27.737 cubic inches at 60 °F.).

Note 8: See § 173.301(k).

Note 12: For an insecticide gas which is nonpoisonous and nonflammable, see § 173.305(c).
Note 13. For a refrigerant or dispersant gas which is nonpoisonous and nonflammable, see § 173.304(e).

§ 173.314 [Amended]

22. In § 173.314, the table in paragraph (c) is amended by revising the entry for "Bromotrifluoromethane (R–13B1 or H–1301)" to read as follows:

§ 173.314 Requirements for Compressed Gases in Tank Cars.

(c) * * *

Kind of Gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a) (2) and (3)
Bromotrifluoromethane. (R–13B1 or H–1301).	124	DOT–110A800W, Notes 13 and 25.
	140	DOT–105A500W, Note 13.

[1] Use of existing tank cars authorized, but new construction not authorized.

Note 1: The filling density for liquefied gases is hereby defined as the percent ratio of the weight of gas in the tank to the weight of water that the tank will hold. For determining the water capacity of the tank in pounds, the weight of a gallon (231 cubic inches) of water of 60 °F. in air shall be 8.32828 pounds.

Note 13: This gas may be transported in authorized tank car tanks stenciled "DISPERSANT GAS" or REFRIGERANT GAS."

Note 25: Specification 106 and 110A tanks for these commodities are authorized for transportation by rail freight, highway, and cargo vessel. (See §§174.204, 176.200, 176.230, 177.834(m) of this subchapter for additional requirements.)

§ 173.315 [Amended]

23. In § 173.315(a)(1) Table, for the entries "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid", the references to "par. (c)" in the second column are revised to read" par. (c)(1)".

§ 173.417 [Amended]

24. In § 173.417, Table 4 in paragraph (b)(1) is amended by changing "3≤H/X ≤10" under the heading Uranium–235 to read "3≤H/Z≤20".

PART 174—CARRIAGE BY RAIL

25. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1, unless otherwise noted.

§ 174.510 [Amended]

26. In § 174.510, the third sentence is amended by removing the phrase "dated May 7, 1971".

PART 175—CARRIAGE BY AIRCRAFT

27. The authority citation for part 175 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1806, 1807, 1808; 49 CFR 1.53(c).

28. In § 175.10, paragraphs (a)(5) and (a)(7) are revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(5) Small-arms ammunition for personal use carried by a crewmember or passenger in his baggage (excluding carry-on baggage) if securely packed in fiber, wood or metal boxes, or other packagings specifically designed to carry small amounts of ammunition. This paragraph does not apply to persons traveling under the provisions of 14 CFR 108.11 (a) and (b).

(7) Oxygen, or any hazardous material used for the generation of oxygen, carried for medical use by a passenger in accordance with 14 CFR 121.574 or 135 91.

PART 176—CARRIAGE BY VESSEL

29. The authority citation for part 176 is revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53.

30. In § 176.11, the introductory text of paragraph (a) is revised to read as follows:

§ 176.11 Exceptions.

(a) A hazardous material may be offered and accepted for transportation by vessel when in conformance with the requirements of the IMDG Code in place of the corresponding requirements of this subchapter pertaining to packaging, marking, labeling, classification, description, certification, placarding, stowage and segregation. All hazardous materials must otherwise be stowed and carried in accordance with this subchapter.

31. In § 176.340, paragraph (a)(2) is revised to read as follows:

§ 176.340 Combustible liquids in portable tanks.

(a) * * *

(2) In nonspecification portable tanks, subject to the following conditions:

(i) Each portable tank must conform to §§ 178.251 and 178.253 of this subchapter, except as otherwise provided in this paragraph;

(ii) The rated capacity of the tank may not exceed 1,200 gallons, and the rated gross weight may not exceed 30,000 pounds;

(iii) The vibration test in § 178.253–5 need not be performed;

(iv) When the total surface area of the tank exceeds 160 square feet, the total emergency venting capacity must be determined in accordance with Table III in § 178.341–4;

(v) In place of a specification identification marking required by § 178.251–7, the tank must be marked, on two sides in letters at least two inches high on contrasting background: "FOR COMBUSTIBLE LIQUIDS ONLY" and "49 CFR 176.340". This latter marking is the certification of the person offering the combustible liquid for transportation that the portable tank conforms to this paragraph;

(vi) Each tank must be made of steel;

(vii) The design pressure of the tank must be no less than 9 psig;

(viii) No pressure relief device may open at less than 5 psig;

(ix) Each tank must be retested and marked at least once every 2 years in accordance with § 173.32(e) (2), (3), and (4) of this subchapter; and

(x) Each tank must conform to the provisions of § 173.24 and paragraphs (g), (h), (i), and (k) of § 173.32

32. In § 176.905, the introductory text of paragraph (k) before the quoted material is revised to read as follows:

§ 176.905 Motor vehicles or mechanical equipment powered by internal combustion engines.

* * * * *

(k) Motor vehicles with fuel in their tanks may be stowed in a closed freight container if the battery cables are disconnected and secured away from the battery terminals and the following warning is affixed to the access doors: * * *

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

33. The authority citation for part 178 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1, unless otherwise noted.

34. In § 178.39–5, paragraph (a) is revised to read as follows:

§ 178.39–5 Nickel.

(a) The percentage of nickel plus cobalt must be at least 99.0 percent.

35. In § 178.224, the Tables in § 178.224–1 and § 178.224–2 are revised to read as follows:

§ 178.224–1 Construction requirements.

(a) * * *

(1) * * *

Net weight of contents (pounds) not over	Capacity, maximum (gals.) (not over)	Diameter inside maximum (inches)	Sidewall strength (lbs.) [1 2]	Tops and bottoms					
				Fiber[3]		Steel, (U.S. gauge)	Wood Thickness (inches)	Plastic	Plywood at least 3-ply construction
				Thickness (inches)	Strength			Solid [4 5 6]	Top thickness
60	5	11¼	500	0.090	600	28	13/16	3/11	
60	20	18½	600	.120	800	28	13/16	3/10	
115	20	18½	700	.120	800	26	13/16	3/8	
115	75	23	800	.160	1100	26	13/16	7/16	090
250	75	23	900	.200	1200	24	13/16	7/16	090
400	75	23	1000	.200	1300	24	13/16	7/16	090

[1] Mullen of Cady Test. Either of the following test methods may be used. When more than single ply, test shall be determined from the summation of the tests of individual plies; or, when test is made on a complete drum, the punctures shall be made from the exterior to the interior surface in which case the values for sidewall shall be not less than 80 percent of the value in the above table and the values for fiber tops and bottoms shall be not less than the value in the above table. There shall be a minimum of six tests and the average shall be not less than the prescribed minimum requirements.

[2] Sidewalls. Sidewalls to be convolutely wound of fiberboard at least 0.012 inch thick, the plies being secured together with adhesives; or may consist of an outer shell and an inner tube each convolutely wound with each fiberboard ply not less than 0.012 inch thick and secured together with adhesive. Drums may contain barrier or lining materials.

[3] When made of 2 or more discs, the discs must be fastened together with adhesive.

[4] Joints in head must be Linderman joints, glued, except as specified in footnote 5.

[5] Wooden heads at least one-half inch thick having kraft paper glued on both sides at all contact areas with water-resistant adhesive are authorized provided tests prescribed in § 178.224–2 are successful. Joints of any type are authorized.

[6] Minimum thickness may be reduced to 25/32 inch for lumber dressed two sides.

§ 178.224–2 Type tests.

(c) * * *

Maximum net weight	Maximum capacity (gallons)	Maximum inside diameter (inches)	Compression (pounds)	
			Static [1]	Dynamic [2]
60	5	11¼	1200	1600
60	20	18½	1200	1600
115	20	18½	1200	1600
115	75	23	1500	2000
250	75	23	1800	2400
400	75	23	2100	2800

[1] Static Test. Compression as specified must be applied to full area of top cover of drum for a period of 48 hours.

[2] Dynamic Test Compression as specified must be applied end to end. Speed of compression tester to be one-half inch plus or minus one-fourth inch per minute.

* * * * *

§ 178.251–7 [Amended]

36. In § 178.251–7, in paragraph (a) the entry for "Original test date" is revised to read: "Original test date" *or* "Leakage test date."

PART 179—SPECIFICATIONS FOR TANK CARS

37. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1, unless otherwise noted.

38. Section 179.14, is revised to read as follows:

§ 179.14 Coupler vertical restraint system

(a) *Performance standard.* Each tank car shall be equipped with couplers capable of sustaining, without disengagement or material failure, vertical loads of at least 200,000 pounds (90,718.5 kg) applied in upward and downward directions in combination with buff loads of 2,000 pounds (907.2 kg), when coupled to cars which may or may not be equipped with couplers having this vertical restraint capability.

(b) *Test verification.* Except as provided in paragraph (d) of this section, compliance with the requirements of paragraph (a) of this section shall be achieved by verification testing of the coupler vertical restraint system in accordance with paragraph (c) of this section.

(c) *Coupler vertical restraint tests.* A coupler vertical restraint system shall be tested under the following conditions:

(1) The test coupler shall be tested with a mating coupler (or simulated coupler) having only frictional vertical

force resistance at the mating interface; or a mating coupler (or simulated coupler) having the capabilities described in paragraph (a) of this section;

(2) The testing apparatus shall simulate the vertical coupler performance at the mating interface and may not interfere with coupler failure or otherwise inhibit failure due to force applications and reactions; and

(3) The test shall be conducted as follows:

(i) A minimum of 200,000 pounds (90,718.5 kg) vertical downward load shall be applied continuously for at least 5 minutes to the test coupler head simultaneously with the application of a nominal 2,000 pounds (907.2 kg) buff load;

(ii) The procedures prescribed in paragraph (c)(3)(i) of this section shall be repeated with a minimum vertical upward load of 200,000 pounds (90,718.5 kg); and

(iii) A minimum of three consecutive successful tests shall be performed for each load combination prescribed in paragraphs (c)(3) (i) and (ii) of this section. A test is successful when a vertical disengagement or material failure does not occur during the application of any of the loads prescribed in this subparagraph.

(d) *Authorized couplers.* As an alternative to the test verifications in paragraph (c) of this section, the following couplers are authorized:

(1) E double shelf couplers designated by the Association of American Railroads' Catalog Nos., SE60CHT, SE60CC, SE60CHTE, SE60CE, SE60DC, SE60DE, SE67CC, SE67CE, SE67BHT, SE67BC, SE67BHTE, SE67BE, SE68BHT, SE68BC, SE68BHTE, SE68BE, SE69AHTE, and SE69AE.

(2) F double shelf couplers designated by the Association of American Railroads' Catalog Nos., SF70CHT, SF70CC, SF70CHTE, SF70CE, SF73AC, SF73AE, SF73AHT, SF73AHTE, SF79CHT, SF79CC, SF79CHTE, and SF79CE.

39. In § 179.100–13, paragraph (d) is revised to read as follows:

§ 179.100–13 Venting, loading and unloading valves, measuring and sampling devices.

* * * * *

(d) An excess flow valve as referred to in this specification, is a device which closes automatically against the outward flow of the contents of the tank in case the external closure valve is broken off or removed during transit. Excess flow valves may be designed with a by-pass to allow the equalization of pressures.

* * * * *

40. In § 179.100–15, paragraph (c) is revised to read as follows:

§ 179.100–15 Safety relief valves.

* * * * *

(c) When a safety relief valve is used in combination with a frangible disc, the frangible disc must be designed to burst at a pressure of 75 percent of the tank test pressure and the safety relief valve must be set for a start-to-discharge pressure of 71 percent of the tank test pressure, as prescribed in § 179.101. A device must be installed to detect any accumulation of pressure between the frangible disc and the safety relief valve. The detection device must be a needle valve, trycock, tell-tale indicator or other approved device. The detection device must be closed during transportation. Alternative pressures for certain commodities are permitted in accordance with § 179.102–11. The tolerance on the valve start-to-discharge pressure is ±3 psi for 100 psi test pressure tanks and ±3 percent for all higher test pressure tanks. The minimum vapor tight pressure is 80 percent of the valve start-to-discharge pressure.

41. In § 179.100–23, paragraph (c) is added to read as follows:

§ 179.100–23 Alternative requirements for tank head puncture resistance systems.

* * * * *

(c) A head shield that was installed on a tank car before December 31, 1987, and that is in the size and shape of the head of the tank car tank (except for any portion of the tank car tank that is below the top of the center sill of the tank car) need not comply with paragraph (a)(2) of this section.

§ 179.105–6 [Removed and Reserved]

§ 179.105–9 [Removed]

42. Section 179.105–6 is removed and reserved, and the designation for § 179.105–9 which is currently reserved is removed.

43. In § 179.200–18, paragraph (b) is revised, and paragraph (c) is added to read as follows:

§ 179.200–18 Safety relief devices.

* * * * *

(b) Safety Vents: (1) When permitted in § 179.201–1, a safety vent, having an inside diameter of at least 1¾ inches and an approved design to prevent interchange with other fixtures may be installed in place of a safety relief valve on tank cars or compartments used for the transportation of corrosive materials, flammable solids, oxidizing materials, or poisonous liquids or solids.

(2) The safety vent shall be closed with a frangible disc which:

(i) Is compatible with the lading;

(ii) Is not subject to rapid deterioration by the lading;

(iii) Is designed to rupture at 100 percent of the tank test pressure, and manufactured and marked in accordance with Appendix A of the AAR Specifications for Tank Cars;

(iv) Is provided with a means for holding the frangible disc in place that will prevent distortion or damage to the disc when properly applied.

(3) A cover, with suitable means of preventing misplacement, shall be provided for the safety vent that will direct any discharge of the lading downward.

(4) All tanks equipped with safety vents shall be stenciled "NOT FOR FLAMMABLE LIQUIDS".

(c) When a safety relief valve is used in combination with a frangible disc on a 100 psi-test pressure tank, the frangible disc must be designed to burst at 75 psi and the safety relief valve must be set for a start-to-discharge pressure of 71 psi. On 60 psi-test pressure tanks, the frangible disc must be designed to burst at 45 psi and the safety relief valve must be set for a start-to-discharge pressure of 35 psi. Provision must be made to detect accumulation of pressure between the frangible disc and the safety relief valve. The detection device shall be a needle valve, try-cock, tell-tale indicator or other approved device. The detection device must be closed during transportation. The tolerance on the valve start-to-discharge pressure is ±3 psi. The minimum vapor tight pressure is 80 percent of the valve start-to-discharge pressure.

§ 179.201–1 [Amended]

44. In § 179.201–1(a) Table, under the column heading "111A60W2", the entry "Special references" is amended by adding "§§ 179.202–8, 179.202–11, and 179.202–16."

§ 179.203–1 [Amended]

45. In § 179.203–1(c), the reference to "§ 173.8" is revised to read "§ 171.12a."

46. In § 179.203–1(d), the reference to "§ 173.9" is revised to read "§ 171.12a."

47. In § 179.300–7, paragraph (a) is revised to read as follows:

§ 179.300 General specifications applicable to multi-unit tank car tanks designed to be removed from the car structure for filling and emptying (Classes DOT 106A and 110A–W).

* * * * *

§ 179.300–7 Materials.

(a) Steel plate material used to fabricate tanks having heads fusion welded to the tank shell must conform with the following specifications with the indicated minimum tensile strength and elongation in the welded condition. The maximum allowable carbon content for carbon steel must be 0 31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials:

Specifications	Tensile strength (psi) welded condition [1] (minimum)	Elongation in 2 inches (percent) welded condition [1] (longitudinal) (minimum)
* * *	*	*
ASTM A 240 type 304....	75,000	25
ASTM A 240 type 304L.....	70,000	25
ASTM A 240 type 316....	75,000	25
ASTM A 240 type 316L.....	70,000	25
ASTM A 240 type 321....	75,000	25
* * *	*	*

[1] Maximum stresses to be used in calculations.

§§ 179.105–1, 179.105–2, 179.105–3, 179.106–1 through 179.106–4, and 179.203–2 [Amended]

48. In Part 179, reference to "§ 179.105–6 is removed and "§ 179.14" is inserted in its place in the following sections:

§ 179.105–1(c)(1)
§ 179.105–2(a)
§ 179.105–2(b)(1)
§ 179.105–2(c)(1)
§ 179.105–3(a)
§ 179.106–1(c)
§ 179.106–2(a)
§ 179.106–2(b)(1)
§ 179.106–2(c)(1)
§ 179.106–3(a)
§ 179.106–3(b)(1)
§ 179.106–3(c)(1)
§ 179.106–4(a)
§ 179.106–4(b)
§ 179.203–2(a)(1)

Issued in Washington, DC on September 7, 1989, under authority delegated in 49 CFR 1.53.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 89–21533 Filed 9–19–89; 8:45 am]

BILLING CODE 4910–60–M

federal register

Wednesday
September 20, 1989

Part III

Environmental Protection Agency

Asbestos; Discontinuation of Course Approvals; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-62078; FRL-3648-9]

Asbestos; Discontinuation of Course Approvals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will no longer accept for review and contingent approval training courses for Asbestos Hazard Emergency Response Act (AHERA) accreditation after October 15, 1989. EPA will continue to conduct full approval audits of all courses that already have received contingent approval and review for contingent approval and subsequent full approval, all courses postmarked on or before October 15, 1989. After that date, course providers seeking approval of their courses should contact their appropriate State agency. EPA will continue to meet other responsibilities under AHERA and assist States in the development of their own accreditation programs.

DATES: EPA will no longer accept for review AHERA training courses seeking approval after October 15, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: With the enactment of the Asbestos Hazard Emergency Response Act (AHERA) in 1986, EPA was required by Congress to establish a model accreditation plan for persons who inspect for asbestos, develop management plans, and design or conduct response actions. EPA issued its Model Plan in the **Federal Register** of April 30, 1987 (52 FR 15820). The Model Plan was designed to provide States with a standard for developing their own accreditation programs. In fact, the Model Plan recommended that States should consider additional requirements beyond those specified in AHERA for certifying accredited personnel as a way of increasing the stringency of the qualifications necessary for doing abatement work. AHERA required that all States adopt an accreditation program at least as stringent as the EPA Model Plan within 180 days after the beginning of their next legislative session. This deadline has passed for all State legislatures.

Although EPA will no longer accept training courses for review and contingent approval for AHERA accreditation after October 15, 1989, EPA will continue to conduct full approval audits of courses contingently approved and review for contingent approval and subsequent full approval courses postmarked on or before October 15, 1989. The review and approval of new courses for AHERA accreditation will now be a responsibility of the States as was intended in AHERA.

This action will mean that decisions about asbestos abatement training requirements will be made at the State level, a situation that EPA has always believed was the most desirable from a risk reduction standpoint and also for pragmatic considerations. Under AHERA, States have discretion to determine the level of stringency of their accreditation programs as long as they are at least as stringent as EPA's Model Plan. Because of the large number of asbestos abatement projects and the short-term nature of many of these projects, use of State-certified contractors and State oversight of projects increases the proximity of the enforcement authority and enables tighter controls to ensure that abatement work is done properly.

Since April 1987 when the proposed AHERA schools rule was issued in the **Federal Register** including a final Model Accreditation Plan, the Agency has moved to assure that trained abatement personnel would be available to meet the demand generated from the enactment of AHERA and to prepare States to take on their responsibilities under AHERA in the area of accreditation. EPA functioned in this capacity to assist States and local education agencies through the critical period after the initiation of AHERA. EPA believes that this period has ended. During this time, EPA has approved 1,362 training courses and 15 State accreditation programs, of which 9 include all disciplines, to develop the nation's infrastructure of accredited inspectors, management planners, project designers, contractors, supervisors, and workers. All these courses and State programs maintain their EPA-approved label for AHERA accreditation purposes. Almost 2 years have passed since the effective date of the AHERA rule, the demand for accreditation courses has decreased somewhat, and those States which have not already done so should be preparing to meet their legal requirements under AHERA.

EPA has financed and implemented several projects in addition to the Model Plan to increase the States' capacities in this area. EPA, through the National Conference of State Legislatures (NCSL), provided the States with model legislation to assist them in developing contractor certification programs and fee-based funding options to support these programs; awarded $2.5 million in grants to 39 States for the purpose of establishing abatement contractor and worker certification programs; granted more than $1 million to 17 States to help them develop inspector and management planner accreditation programs; and, through a State Enhancement Program, plans to allot additional funds for State activities which will include accreditation programs.

As States begin to build on the existing infrastructure of accreditation, EPA will redirect its resources to other responsibilities it has under AHERA, other concerns related to asbestos risk reduction, and State assistance activities. EPA will focus on: AHERA compliance efforts; enhancement and approval of State accreditation programs; aggressive audits of approved courses; audits of courses with contingent approval; and continued development of guidance materials and the provision of technical assistance for managing asbestos in public and commercial buildings.

EPA will also continue to provide assistance to States through its agreement with NCSL and the Agency's State Enhancement initiative. NCSL has focused on ways to improve the quality and effectiveness of State legislatures' efforts in developing programs, policies and standards to address asbestos hazards in buildings, and assuring that State legislatures will have a strong, cohesive voice in the federal system on asbestos issues. Additionally, several on-going EPA projects will be major efforts of the Agency over the next year and a half: State enhancement activities; the development of a Model Reciprocity Plan in cooperation with the National Asbestos Council to enable inter-state

accreditation; and, the development of model courses for workers and project designers.

In conclusion, EPA has recognized that it is now appropriate for the Agency to move aside and allow the States to assume the lead in approval of training courses for AHERA accreditation as the law intended. EPA will now increase its focus on those elements of AHERA that are Federal in nature, but, will at the same time continue to provide resources and services to States for the development of their accreditation programs.

Dated: September 14, 1989.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 89–22189 Filed 9–19–89; 8:45 am]

BILLING CODE 6560–50–M

federal register

Wednesday
September 20, 1989

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Chapter I

Food Labeling; Notice of Hearings and Extension of Comment Period on Advance Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR CH. I

[Docket No. 89N-0226]

RIN 0905-AD08

Food Labeling; Notice of Hearings and Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearings and extension of comment period on advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is announcing a series of four public hearings on food labeling to discuss issues related to nutrition labeling, ingredient labeling, descriptions of food, health messages, and nutrition label format. This notice also extends until January 5, 1990, the comment period on the advance notice of proposed rulemaking (ANPR) that was published in the **Federal Register** of August 8, 1989 (54 FR 32610).

DATES: See "Supplementary Information" for the dates and locations of the hearings. The comment period on the ANPR (54 FR 32610; August 8, 1989) is extended until January 5, 1990.

ADDRESSES: A copy of the ANPR that was published August 8, 1989 (54 FR 32610), can be obtained by contacting the Office of Consumer Affairs, Food and Drug Administration (HFE-88), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3170, between 8 a.m. and 4:30 p.m., Monday through Friday. Written comments on any of the food labeling topics should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. See "Supplementary Information" for information regarding written requests to participate in the hearings.

FOR FURTHER INFORMATION CONTACT: Persons needing information about the substantive food labeling issues to be addressed at the four hearings should contact:

F. Edward Scarbrough, Center for Food Safety and Applied Nutrition (HFF-200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1561.

Questions about the hearings in general should be directed to:

Patricia Kuntze, Office of Consumer Affairs (HFE-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: Health and Human Services Secretary Louis W. Sullivan and Commissioner of Food and Drugs Frank E. Young have launched a major initiative to improve the food label. In the **Federal Register** of August 8, 1989 (54 FR 32610), FDA published an ANPR on food labeling. In the notice, the agency requested public comment on possible changes in the labeling of food and announced its intention to hold public hearings in different areas of the country on the following food labeling topics: nutrition labeling, ingredient labeling, nutrition label format, descriptions of foods, and health messages. In the ANPR, FDA provided a discussion of these topics and of specific issues related to these topics on which it is soliciting comments. Interested persons are encouraged to review the ANPR to become familiar with the many issues that it addresses. For convenience, however, a summary of the five major food labeling categories and some of the key questions on which FDA seeks comments are set forth below:

1. *Nutrition Labeling*—Nutrition labeling provides nutrition information about a food by listing the quantities of calories, protein, carbohydrates, fat, sodium, and vitamins and minerals in the food. Currently, nutrition labeling is mandatory only when a nutrition claim is made or when nutrients are added to a food.

a. Should nutrition labeling be mandatory for all foods?

b. Should there be any exceptions?

c. Should the list of elements be revised to eliminate some items and add others, such as cholesterol, fiber, and saturated/unsaturated fat?

d. How should serving size on the food product be determined?

2. *Nutrition Labeling Format*—The law specifies that information on the food label should be conspicuously displayed and presented in terms that the ordinary consumer is likely to read and understand. FDA regulations specify a nutrition label format that consists of "columns of figures."

a. What is the best format for a nutrition label?

b. How can the label be changed to make it easier to read and understand?

3. *Ingredient Labeling*—FDA regulations currently require labels on most packaged foods to list the ingredients in descending order of predominance by weight.

a. Should ingredients also be listed by percentage?

b. Should specific fat and oil ingredients be listed rather than allowing "and/or" labeling?

c. Should complete ingredient labeling be required on all foods?

4. *Descriptions of Food*—There are a number of ways in which foods are described in the food label or in the food labeling, including with names established by standards of identity or with the common or usual name, and with descriptor labeling such as "low calorie," "low fat," "lite," "high fiber," "natural," and "organic."

a. Should standards of identity be revised to reflect current thinking on nutritional benefits, or should efforts be made to eliminate standards of identity by requiring full disclosure of characterizing ingredients?

b. What definitions for descriptors are necessary and how should they be established?

5. *Health Messages on Food Labeling*—Food labels have been used increasingly by manufacturers to convey information about the relationship between specific food components and health. Examples include dietary fiber's potential protective benefits against cancer, the role of saturated fat and cholesterol in the prevention of heart disease, and calcium's possible impact on osteoporosis.

What should FDA's policy be with respect to the use of health messages on food labels?

FDA has scheduled 1-day public hearings at four locations. Should more time be needed for each hearing, a second day has been set aside for this purpose. Each of the four hearings will focus on one or two designated food labeling topics, as listed below. Nevertheless, the public is free to comment on any food labeling topics that are addressed under this initiative at any of the hearings.

Dates	Locations	Focus topics
October 16, 1989.	University of Illinois, College of Pharmacy, 833 South Wood, Auditorium, Rm. 56, Lower Level, Chicago, IL 60612.	Nutrition Label Content.
November 1, 1989.	University of Texas Health Science Center, School of Nursing Auditorium, 7703 Floyd Curl Dr., San Antonio, TX 78284.	Ingredient Labeling and Food Standards, Food Descriptors.

Dates	Locations	Focus topics
December 7, 1989.	North Auditorium, Jackson Federal Bldg., 915 Second Ave., Seattle, WA 98174.	Health Messages.
December 13, 1989.	Richard B. Russell, Federal Bldg., 75 Spring St., Atlanta, GA 30303.	Nutrition Label Format.

Written requests to participate in the hearings should be submitted to FDA personnel at the individual hearing sites as follows:

Chicago: Darlene Bailey, or Marie Ekvall, Consumer Affairs Officers, Food and Drug Administration, 433 West Van Buren St., 1222 Main Post Office Bldg., Chicago, IL 60607, 312–353–7126.

San Antonio: Juan Tijerina, Consumer Affairs Officer, Food and Drug Administration, 727 East Durango, Rm. B 406, San Antonio, TX 78206–1200, 512–229–6737.

Seattle: Sue Hutchcroft, Consumer Affairs Officer, Food and Drug Administration, 22201 23rd Dr. NE., Bothell, WA 98021–4421, 206–483–4953.

Atlanta: Barbara Ward, Consumer Affairs Officer, Food and Drug Administration, 60 Eighth St. NE., Atlanta, GA 30309, 404–347–7355.

The notice of participation should contain the name, affiliation (if applicable), address, home and work telephone numbers of the participant, and the topic of presentation. Presenters will be allowed a maximum of 10 minutes. Participants should put the words "Notice of Participation" on the outside of the envelope. The hearings will be conducted in accordance with part 15—Public Hearing Before the Commissioner of Title 21 of the Code of Federal Regulations.

The hearings will be open to all interested parties. Those individuals and organizations that submit a notice of participation will be given a specific time to testify at a hearing. Individuals and organizations that do not submit a notice but that would like to testify will be given the opportunity to do so if time permits.

Each hearing will be held from 10 a.m. to 8 p.m. The Commissioner of Food and Drugs or his designee will preside over all of the hearing sessions.

FDA is holding these hearings to gather information and opinions on the five food labeling topics outlined above. FDA will use the information that it receives at the hearings, along with written comments, in deciding what changes, if any, are necessary in current food labeling requirements.

The agency hopes that a broad spectrum of the private and public sectors will participate in the hearings. However, it is the special aim of these national hearings to provide an avenue for the expression of views of individuals. FDA will prepare a hearing schedule showing the persons slated to make oral presentations and the time allotted to each person. The schedule will be on file at the Dockets Management Branch (address above) and will be mailed or telephoned to each participant before each hearing. Any handicapped persons requiring special accommodations in order to attend the hearings should direct those needs to the hearing site contact person indicated in this notice.

Individuals and organizations who testify at these hearings should submit two copies of their written testimony for the official record on the day they are to appear at the hearing. Interested parties who want to provide additional information for inclusion in the record may submit information and views in writing to the Dockets Management Branch by January 5, 1990. The submission should be identified with the docket number found in brackets in the heading of this document. Submissions received may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 15, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–22228 Filed 9–19–89; 8:45 am]

BILLING CODE 4160–01–M

federal register

Wednesday
September 20, 1989

Part V

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 515

Supplemental List of Specially Designated Nationals (Cuba) in Panama; Notice of Additions

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Supplemental List of Specially Designated Nationals (Cuba) in Panama

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice of Additions to the List of Specially Designated Nationals of Cuba.

SUMMARY: This notice provides the names of firms operating in Panama that have been added to the list of Specially Designated Nationals under the Treasury Department's Cuban Assets Control Regulations (31 CFR Part 515). Also provided is a complete current listing of Specially Designated Nationals of Cuba in Panama.

EFFECTIVE DATE: September 20, 1989.

FOR FURTHER INFORMATION CONTACT: Richard J. Hollas, Chief, Enforcement Division, Office of Foreign Assets Control, Tel: (202) 376-0400. Copies of the list of Specially Designated Nationals are available upon request at the following locaiton: Office of Foreign Assets Control, Department of the Treasury, 1331 G Street NW., Room 300, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Under the Cuban Assets Control Regulations, persons subject to the jurisdiction of the United States are prohibited from engaging, directly or indirectly, in transactions with any nationals or specially designated nationals of Cuba, or involving any property in which there exists an interest of any national or specially designated national of Cuba, except as authorized by the Treasury Department's Office of Foreign Assets Control by means of a general or specific license.

Section 515.302 of part 515 defines the term "national," in part, as (a) a subject or citizen domiciled in a particular country, or (b) any partnership, association, corporation, or other organization owned or controlled by nationals of that country, or that is organized under the laws of, or that has had its principal place of business in that foreign country since the effective date (for Cuba, 12:01 a.m., e.s.t., July 8, 1963), or (c) any person that has directly or indirectly acted for the benefit or on behalf of any designated foreign country. Section 515.305 defines the term "designated national" as Cuba or any national thereof, including any person who is a specially designated national. Section 515.306 defines "specially designated national" as any person who has been designated as such by the Secretary of the Treasury; any person who, on or since the effective date, has either acted for or on behalf of the government of, or authorities exercising control over any designated foreign country; or any partnership, association, corporation or other organization that, on or since the applicable effective date, has been owned or controlled directly or indirectly by such government or authorities, or by any specially designated national.

Section 515.201 prohibits any transaction, except as authorized by the Secretary of the Treasury, involving property in which there exists an interest of any national or specially designated national of Cuba. The list of Specially Designated Cuban Nationals is a partial one, since the Department of the Treasury may not be aware of all the persons located outside Cuba that might be acting as agents or front organizaitons for Cuba, thus qualifying as specially designated nationals of Cuba. Also, names may have been omitted because it seemed unlikely that those persons would engage in transactions with persons subject to the jurisdiction of the United States. Therefore, persons engaging in transactions with foreign nationals may not rely on the fact that any particular foreign national is not on the list as evidence that it is not a specially designated national.

The Treasury Department regards it as incumbent upon all U.S. persons engaging in transactions with foreign nationals to take reasonable steps to ascertain for themselves whether such foreign nationals are specially designated nationals of Cuba, or other designated countries (at present, Cambodia, North Korea, and Vietnam). The list of Specially Designated Nationals was last published on December 10, 1986, in the Federal Register (51 FR 44459), and was amended on November 3, 1988 (53 FR 44397), January 24, 1989 (54 FR 3446), April 10, 1989 (54 FR 14215) and August 4, 1989 (54 FR 32064).

Please take notice that section 16 of the Trading with the Enemy Act (the "Act"), as amended, provides in part that whoever willfully violates any provision of the Act or any license, rule or regulation issued thereunder:

"Shall, upon conviction, be fined not more than $50,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both; and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States."

In addition, persons convicted of an offense under the Act may be fined a greater amount than set forth in the Act, as provided in 18 U.S.C. 3571 and 3581.

Authority: 50 U.S.C. App. 5(b) and 18 U.S.C. 3571 and 3581.

Specially Designated Nationals of Cuba in Panama (New Additions at This Publication)

Duque, Carlos
Panama
Facobata
Panama
Fruni Trading, S.A.
Panama City, Panama
Gallo Import
Panama
Guaca Export
Panama
Interconsult
Panama
International Petroleum, S.A.
Colon Free Zone, Panama
IPESCO (See International Petroleum, S.A.)
Panama
Kave, S.A.
Panama
Lakshmi
Panama
Marine Registration Company
Panama
Piramide Internacional
Panama
Transit, S.A.
Panama
Trust Import-Export, S.A.
Panama

Complete Current List of Specially Designated Nationals of Cuba in Panama

Abastecadora Naval Y Industrial, S.A. (a.k.a. Anainsa)
Panama
Abdelnur, Nury De Jesus
Panama
Agencia de Viajes Guama (a.k.a. Viajes Guama Tours, Guamatur, S.A. and Guama Tour)
Bal Harbour Shopping Center, Via Italia, Panama City, Panama
Alfonso, Carlos (a.k.a. Carlos Alfonso Gonzalez)
Panama
Alvarez, Manuel (Aguirre)
Panama
Anainsa (a.k.a. Abastecadora Naval y Industrial, S.A.)
Panama
Angelini, Alejandro Abood

Panama
Avalon, S.A.
Colon Free Zone, Panama
Batista, Miguel
Panama
Bewell Corporation, Inc.
Panama
Boutique La Maison
42 Via Brasil, Panama City, Panama
Bradfield Maritime Corp., Inc.
Panama
Caballero, Roger Montanes (a.k.a. Roger Montanes and Roger Edward Dooley)
Panama
Canapel, S.A.
Panama
Caribbean Happy Lines (a.k.a. Caribbean Happy Lines Co.)
Panama
Caribsugar, S.A.
Panama
Carisub, S.A.
Panama
Casa del Respuesto
Panama
Castell, Osvaldo Antonio (Valdez)
Panama
Cecoex, S.A.
Panama City, Panama
Chamet Import, S.A.
Panama
Cimex, S.A.
Panama
Coll, Gabriel (Prado)
Panama
Colon, Eduardo (Betancourt)
Panama
Colony Trading, S.A.
Panama
Comercial Cimex, S.A.
Panama
Comercial Muralla, S.A. (a.k.a. Muralla, S.A.)
Panama City, Panama
Compania Pesquera Internacional, S.A.
Panama
Contex, S.A.
Panama
Corporacion Cimex, S.A.
Panama
Cubana Airlines (a.k.a. Empresa Cubana de Aviacion)
Calle 29 y Avda Justo Arosemena, Panama City, Panama
Cuenca, Ramon Cesar
Panama
Delgado, Antonio (Arsenio)
Panama
Deprosa, S.A. (a.k.a. Desarrollo De Proyectos, S.A.)
Panama City, Panama
Desarrollo De Proyectos, S.A. (a.k.a. Deprosa, S.A.)
Panama City, Panama
Dooley, Michael P.
Panama
Dooley, Roger Edward (a.k.a. Roger Montanes Caballero and Roger Montanes)
Panama
Duque, Carlos
Panama
Echeverri, German
Panama
Edyju, S.A.
Panama
Empresa Cubana de aviacion (see Cubana Airlines)
Panama
Fabro Investment, Inc.
Panama
Facobata
Panama
Fruni Trading, S.A.
Panama City, Panama
Gallo Import
Panama
Garcia Santamaria de la Torre, Alfredo Rafael (see also "Santamarina")
Panama
Global Marine Overseas, Inc.
Panama
Golden Comet Navigation Co., Ltd.
Panama
Gonzalez, Carlos Alfonso (a.k.a. Carlos Alfonso)
Panama
Grete Shipping Co., S.A.
Panama
Guaco Export
Panama
Guama Tour (a.k.a. Agencia de Viajes Guama, Viajes Guama Tours and Guamatur, S.A.)
Bal Harbour Shopping Center, Via Italia, Panama City, Panama
Guamar Shipping Co., S.A.
Panama
Guamatur, S.A. (a.k.a. Agencia de Viajes Guama, Viajes Guama Tours and Guama Tour)
Bal Harbour Shopping Center, Via Italia, Panama City, Panama
Havanatur, S.A.
Panama City, Panama
Havinpex, S.A. (a.k.a. Transover, S.A.)
Panama City, Panama
Haya, Francisco
Panama
Hermann Shipping Corp., Inc.
Panama
Heywood Navigation Corp.
Panama
Imprisa, S.A.
Panama
Interconsult
Panama
International Petroleum, S.A.
Colon Free Zone, Panama
International Transport Corporation
Colon Free Zone, Panama
Inversiones Lupamar, S.A. (a.k.a. The Lupamar Investment Company)
Panama
IPESCO (a.k.a. International Petroleum S.A.)
Colon Free Zone, Panama
Jiminez, Gillermo (Soler)
Panama
Kaspar Shipping, S.A.
Panama
Kave, S.A.
Panama
Lakshmi
Panama
Leybda Corporation, S.A.
Panama
Louth Holdings, S.A.
Panama
Manzper Corp.
Panama
Marine Registration Company
Panama
Marisco (or Mariscos) de Farallon, S.A.
Panama
Marketing Associates Corporation
Calle 52 E, Campo Alegre, Panama City, Panama
Maryol Enterprises, Inc.
Panama
Medina Anita (a.k.a. Ana Maria Medina)
Panama
Mercurius Import/Export Company, Panama, S.A.
Calle C, Edificio 18, Box 4048, Colon Free zone, Panama
Monet Trading Company
Panama
Montanes, Roger (a.k.a. Roger Montanes Caballero and Roger Edward Dooley)
Panama
Montanez, Michael
Panama
Moonex Internatinal, S.A.
Panama
Muralla, S.A. (a.k.a. Comercial Muralla, S.A.)
Panama City, Panama
Navigable Water Corp., Ltd.
Panama
Ortega, DArio (Pina)
Edificio Saldivar, Panama City, Panama
Panamerican Import and Export Commercial Corp.
Panama
Panoamerican
Panama
Pena, Jose (Torres)
Panama
Pena, Victor
Panama
Perez, Alfonso
Panama
Perez, Manuel Martin
Panama
Perez, Osvaldo (Cruz)
Panama
Pescados Y Mariscos de Panama (a.k.a. Pesmar or Pezmar) S.A.
Panama City, Panama
Pesmar (or Pezmar), S.A. (a.k.a. Pescados y Mariscos de Panama)
Panama City, Panama

Piramide Internacional
Panama
Pons, Alberto
Executive Representative, Banco Nacional de Cuba, Federico Boyd Ave. & 51 St., Panama City, Panama
Prado, Julio (a.k.a. Julio Lobato)
Panama
Presa, S.A.
Panama
Radio Service, S.A.
Panama
Reciclaje Industrial, S.A.
Panama
Rent-A-Car, S.A.
Panama
Reyes, Guillermo (Vergara)
Panama City, Panama
Rocha, Antonio
Panama City, Panama
Rodriquez, Jesus (Borges or Borjes)
Panama
Romeo, Charles (a.k.a. Charles Henri Robert Romeo)
Panama
Roque, Roberto (Perez)
Panama
Ruiz, Ramon Miguel (Poo)
Panama
Santamarina, de la Torre Rafael Garcia (see also "Garcia")
Panama
Servimpex, S.A.
Panama
Servinaves, S.A.
Panama
Shipley Shipping Corp.
Panama
Siboney Internacional, S.A.
Edificio Balmoral, 82 Via Argentina
Panama City, Panama
Suplidora Latino Americana, S.A. (a.k.a. Suplilat, S.A.)
Panama City, Panama
Suplilat, S.A., (a.k.a. Suplidora Latino Americana, S.A.)
Panama City, Panama
Taller De Reparaciones Navales, S.A. (a.k.a. Tarena)
Panama City, Panama
Tarena, S.A. (a.k.a. Taller De Reparaciones Navales S.A.)
Panama
Technic Digemex Corp.
Calle 34 No. 4–50, Office 301, Panama City, Panama
Technic Holding Inc.
Calle 34 No. 4–50, Office 301, Panama City, Panama
Temis Shipping Co.
Panama
Tosco, Arnaldo (Garcia)
Panama
Tramp Pioneer Shipping Co.
Panama
Transit, S.A.
Panama
Transover, S.A. (a.k.a. Havinpex, S.A.)
Panama City, Panama
Treviso Trading Corporation
Edificio Banco de Boston, Panama City, Panama
Trober, S.A. (a.k.a. Trover, S.A.)
Edificio Saldivar, Panama City, Panama
Trust Import-Export, S.A.
Panama
Valletta Shipping Corp.
Panama
Vasquez, Oscar D. (a.k.a. Vazques, Oscar D.)
Panama
Viacon International, Inc.
Apartment 7B Torre Mar Building, Punta Paitilla Area, Panama City, Panama
France Field, Colon Free Zone, Panama
Viajes Guama Tours (a.k.a. Guamatur, S.A., Guama Tour and Agencia de Viajes Guama)
Bal Harbour Shopping Center, Via Italia, Panama City, Panama
Wittgreen, Carlos (a.k.a. Carlos Wittgreen Antinori, Carlos Wittgreen Antinori, Carlos Wittgreen A., and Carlos Antonio Wittgreen)
Panama

Dated: September 5, 1989.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: September 11, 1989.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 89–22395 Filed 9–19–89; 10:15 am]

BILLING CODE 4810-25-M

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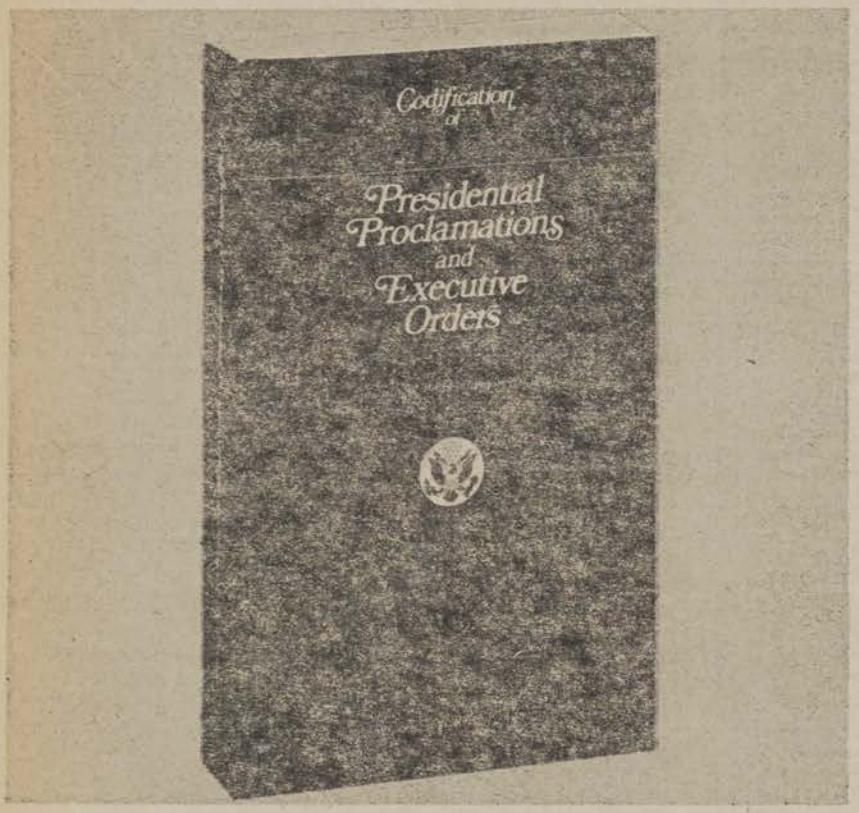

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