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

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: January 30, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

Contents

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

CFR PARTS AFFECTED IN THIS ISSUE

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

1 CFR
305 ... 1665

3 CFR
Proclamations:
6089 ... 1661
Administrative Orders:
Presidential Determinations:
No. 90-5 of Jan. 2, 1990 ... 1663

5 CFR
2638 ... 1665

7 CFR
272 ... 1670
275 ... 1670

16 CFR
Proposed Rules:
414 ... 1768

17 CFR
Proposed Rules:
200 ... 1678

21 CFR
176 ... 1672
510 ... 1673

26 CFR
1 ... 1768

27 CFR
5 ... 1768

33 CFR
Proposed Rules:
110 ... 1679

40 CFR
Proposed Rules:
85 ... 1680
600 ... 1680

41 CFR
105-1 ... 1673
302-11 ... 1674

47 CFR
0 ... 1676

49 CFR
Proposed Rules:
571 ... 1681

50 CFR
Proposed Rules:
228 ... 1685

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

Presidential Documents

Title 3—

The President

Proclamation 6089 of January 16, 1990

National Poison Prevention Week, 1990

By the President of the United States of America

A Proclamation

Since its inception 29 years ago, "National Poison Prevention Week" has encouraged the American people to take measures to prevent childhood poisonings. Today we know that this important public awareness campaign has helped save lives. According to data gathered by the U.S. Consumer Product Safety Commission, approximately 450 children under 5 years of age died in 1961 after accidentally ingesting medicines or household chemicals. During 1987, the most recent year for which complete statistics are available, 31 deaths from accidental poisoning occurred among children—a 93 percent decrease.

Efforts to promote public awareness, coupled with educational programs for parents and the use of child-resistant packaging, have played a major role in the reduction of poisoning deaths. Offering lifesaving advice and information over the telephone, the Nation's Poison Control Centers have also helped prevent many serious injuries and deaths among children.

While many tragic deaths have been prevented in recent years, we still have much work to do. Each year, more than half a million children are exposed to potentially poisonous medicines or household chemicals, as documented through calls to Poison Control Centers.

More parents and grandparents must recognize their primary role in poison prevention. Accidental poisonings can be prevented if parents, grandparents, and other guardians keep medicines and household chemicals out of the reach of children. Adults should also be sure to store all potentially harmful substances in packages with child-resistant closures.

These important messages are carried across the country by the Poison Prevention Week Council, a coalition of 36 national health, safety, and governmental organizations and agencies concerned with preventing childhood poisonings. The annual observance of "National Poison Prevention Week" provides a special opportunity for Poison Control Centers personnel, educators, pharmacists, and other health professionals to remind every American adult of the need to protect our little ones from accidental poisoning.

To encourage the American people to learn more about the dangers of accidental poisonings and to take more preventative measures against them, the Congress, by joint resolution approved September 26, 1961 (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March of each year as "National Poison Prevention Week."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning March 18, 1990, as National Poison Prevention Week. I call upon all Americans to observe this week by participating in appropriate programs and activities and by learning how to prevent accidental poisonings among children.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90-1333
Filed 1-16-90; 4:33 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 90–5 of January 2, 1990

Determination Pursuant to Section 548 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990

Memorandum for the Secretary of State

Pursuant to Section 548 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, (Public Law 101–167), I hereby certify that the withholding of funds to the multilateral development banks and other international organizations and programs, pursuant to the limitation contained therein prohibiting the obligation of funds appropriated by that Act to finance indirectly any assistance or reparations to certain specific countries, is contrary to the national interest.

This determination shall be published in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, January 2, 1990.

[FR Doc. 90–1304
Filed 1–16–90; 3:24 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 305

Recommendations of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations; correction.

SUMMARY: The Administrative Conference is correcting an error in Recommendation 89–10, Improved Use of Medical Personnel in Social Security Disability Determinations, 1 CFR 305.89–10, which appeared in the Federal Register on December 29, 1989 (54 FR 53493, 53496).

FOR FURTHER INFORMATION CONTACT: Jean Conrad at (202) 254–7065.

Dated: January 10, 1990.

Jeffrey S. Lubbers,
Research Director.

The following correction is made in Recommendation 89–10, Improved Use of Medical Personnel in Social Security Disability Determinations, 1 CFR 305.89–10, published in the Federal Register on December 29, 1989 (54 FR 53496).

§ 305.89–10 [Corrected]

1. The Recommendation number in parentheses at the end of this title which reads "(Recommendation 88–10")" is revised to read as follows: "(Recommendation 89–10)."

[FR Doc. 90–1141 Filed 1–17–90; 8:45 am]
BILLING CODE 6110–01–M

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2638

RIN 3209–AA02 (formerly 3206–AD71)

Implementation of the Office of Government Ethics Reauthorization Act of 1988

AGENCY: Office of Government Ethics.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Government Ethics is issuing interim regulations to establish procedures: (1) To correct deficiencies in agency ethics programs; (2) to bring individual employees into compliance with rules, regulations and executive orders relating to standards of conduct and conflicts of interest; and (3) to specify requirements for agency reports and assistance.

DATES: Interim regulations effective February 20, 1990. Comments must be received on or before March 19, 1990.

ADDRESSES: Office of Government Ethics, Suite 500, 1201 New York Avenue NW., DC 20005–3917, Attention: Ms. Wilcox.

FOR FURTHER INFORMATION CONTACT: Leslie Wilcox, Office of Government Ethics, telephone (202/FTS) 523–5757.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics Reauthorization Act of 1988, Public Law 100–598, 5 U.S.C. app. IV, amended title IV of the Ethics in Government Act of 1978, as amended, to authorize appropriations for the Office through fiscal year 1994, to establish the Office of Government Ethics as a separate executive agency as of October 1, 1989, and to amplify certain authority contained in that title. Included is the authority of the Director of the Office of Government Ethics under sections 402(b)(9) and 402(f) of the Ethics Act to order corrective action on the part of individuals and agencies, the authority under sections 402(b)(10) and 402(e) to require reports from executive agencies, and the authority of section 403 to direct agencies to provide personnel and services necessary to carry out the purposes of the Act. The provisions of the new Ethics Reform Act of 1989, Public Law 101–194 (November 30, 1989), are not reflected in these regulations; appropriate changes, including modified citations, will be made in the future once the various provisions of the new law which are relevant to these regulations become effective.

These interim regulations outline procedures for correcting agency ethics programs and are designed to address deficiencies in agency procedures and operations implementing laws and regulations relating to financial disclosure, standards of conduct and conflicts of interest. While giving agencies notice of deficiencies and the opportunity to initiate corrective action, the regulations provide that the Director of the Office of Government Ethics may order corrective action and notify the President and the Congress where the agency fails within a reasonable time to comply with an order.

The procedures contained in the regulations also address instances of violations by individual officers and employees that apply where the Director has reason to believe that an employee is violating or has violated a rule, regulation or provision in an executive order relating to standards of conduct or conflicts of interest in the executive branch. The Director may offer advice and recommendations and may also recommend that the individual's employing agency investigate, consider and resolve the matter. There are additional procedures which may be used in lieu of or in conjunction with an agency investigation. The Director may issue a finding as to whether an employee has violated or is violating an enthics provision and may recommend disciplinary action or order appropriate corrective action. Proceedings contemplating a recommendation or order require notice and opportunity for the employee to comment. Prerequisite to the Director's issuance of an order for corrective action, the employee may elect to have a hearing on the record. There are requirements for reporting noncompliance by the employee to the head of the agency and for reporting noncompliance by the agency to the President. Recommendations and orders respecting an agency head may entail transmittal to the President.

In addition, the regulations contain requirements for annual reports concerning agency ethics programs, starting February 1, 1990, and for notifying the Director when matters are referred for possible prosecution.

These regulations contain certain citations to various parts in new chapter

XVI of 5 CFR for the regulations of the Office of Government Ethics. See 54 FR 50229–50231 (December 5, 1989), which established the new chapter and transferred three government ethics regulations to it—new parts 2634, 2637 and 2638 (the latter part being amended by this document). As explained in the cited Federal Register document, one executive branch government ethics regulation, part 735, remains for now in chapter I of 5 CFR, the chapter for the Office of Personnel Management.

Administrative Procedure Act

Pursuant to section 553(b) of title 5 of the United States Code, the Director of the Office of Government Ethics finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because these regulations concern matters of agency organization, practice and procedure and because the Office of Government Ethics Reauthorization Act of 1988 has been in effect since November 1988, and it is essential to the workings of federal agency ethics programs that these implementing regulations go into effect as soon as possible. However, these are interim rules with provision for a 60 day comment period. The Office of Government Ethics will review any comments received and consider any modifications to these rules which appear warranted.

Executive Order 12291

The Office of Government Ethics has determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation Requirements.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because these regulations do not contain information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Regulation Identifier Number

The Regulation Identifier Number (RIN) in the heading of this document indicates the newly-assigned Office of Government Ethics number for this rulemaking, 3209–AA02. Previously, the rulemaking carried an Office of Personnel Management (OPM) RIN, 3206–AD71, since the Office of Government Ethics was, until October 1, 1989, a part of OPM.

List of Subjects in 5 CFR Part 2638

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Approved: December 18, 1989.

Donald E. Campbell,

Acting Director, Office of Government Ethics.

Accordingly, 5 CFR part 2638 is amended as follows:

PART 2638—OFFICE OF GOVERNMENT ETHICS AND EXECUTIVE AGENCY ETHICS PROGRAM RESPONSIBILITIES

1. The authority citation for part 2638 continues to read as follows:

Authority: 5 U.S.C. appendixes, III, IV.

2. Subparts D, E and F of part 2638 are added to read as follows:

Subpart D—Correction of Agency Programs

Sec.

Subpart E—Corrective and Remedial Action in Cases Involving Individual Employees

Subpart F—Agency Reports

Subpart D—Correction of Agency Program

§ 2638.401 In general.

The Director of the Office of Government Ethics has authority under subsections 402(b)(9) and 402(f)(1) of the Ethics in Government Act to order action to correct deficiencies in agency ethics programs. These procedures are intended to be used to correct deficiencies in agency ethics programs that are not being addressed adequately by the agency. They are not intended to be used to deal with cases involving individual employees or former employees. See subpart E of this part. For purposes of this section, an agency ethics program shall include those matters that are the responsibility of agency heads and designated agency ethics officials under subpart B of this part and shall include the requirements under part 2634 of this chapter and part 735 of this title to establish public and nonpublic financial disclosure systems. In implementing these procedures, the Director may use any authority contained in the Ethics Act.

§ 2638.402 Corrective orders.

(a) *Notice.* Where the Director has information indicating that an agency ethics program is not in full compliance with the requirements set forth in applicable statutes or regulations, the Director may issue a Notice of Deficiency to the designated agency ethics official and request an agency report under paragraph (b) of this section.

(b) *Agency report.* Within such time as may be set forth in the Notice of Deficiency, the designated agency ethics official shall provide a written report to the Director that shall include relevant information about the agency's ethics program. The ethics official's report may include:

(1) Information establishing that there is no deficiency;

(2) An explanation of how any deficiency is being corrected; or

(3) A plan for correcting any deficiency within a reasonable period of time.

(c) *Director's determination.* The Director will make a determination based on the agency report.

(1) If the Director determines that there is no deficiency, the designated agency ethics official will be so notified.

(2) If the Director determines that appropriate steps are being taken or that the agency has presented an adequate plan for correcting the deficiency, the Director will so notify the designated agency ethics official and, in consultation with the designated agency ethics official, establish requirements for status reports, if necessary, and for notification when the deficiency has been corrected.

(3) If the Director determines that a deficiency is not being corrected, the Director will issue an Order under paragraph (d) of this section.

(d) *Orders.* An order issued by the Director will be addressed to the head of the agency with a copy to the designated agency ethics official and shall specify:

(1) The deficiency in the agency ethics program that requires correction;

(2) The basis upon which the Director has determined that a deficiency exists;

(3) The corrective action required to remedy the deficiency; and

(4) Any reporting requirements necessary to establish that corrective action has been accomplished.

§ 2638.403 Agency compliance.

Within such time as may be set forth in the order, the agency head shall file a report with the Director detailing the corrective action taken. If corrective action cannot be accomplished within that time, the agency head shall submit a plan of corrective action for approval by the Director providing for appropriate status reports and notification of compliance. In either case, if the agency report or plan is deemed satisfactory, the Director will so inform the agency head. If the agency report or plan is insufficient, but only in minor respects, the Director may inform the agency head of the adjustments needed to bring the report or plan into compliance and a timeframe therefor; otherwise, the procedures under § 2638.404 of this subpart will be invoked.

§ 2638.404 Report of noncompliance.

If the agency fails to comply with an order issued under § 2638.402(d), the Director shall:

(a) Notify the head of the agency of intent to furnish a report of noncompliance to the President and the Congress;

(b) Provide the agency 14 calendar days within which to furnish written comments for submission with the report of noncompliance; and

(c) Report the agency's noncompliance to the President and to the Congress.

Subpart E—Corrective and Remedial Action in Cases Involving Individual Employees

§ 2638.501 In general.

(a) *Authority.* The Director of the Office of Government Ethics has authority under subsections 402(b)(9) and 402(f)(2) of the Act to order corrective and remedial action with respect to individual employees to bring about compliance with applicable ethics provisions. Nothing in this subpart relieves an agency of its primary responsibility to ensure compliance.

(b) *Definitions.* For the purpose of this subpart:

(1) *Ethics provision* includes any rule, regulation or executive order relating to conflicts of interest or standards of conduct in the executive branch. The term excludes any statute that is contained in title 18 of the United States Code or which imposes a criminal penalty as well as any statute made applicable to a specific agency that mandates or proscribes conduct not otherwise the subject of Governmentwide standards. It excludes any matter covered by sections 101 (k) and (m) of Executive Order 12674 that are within the cognizance of agency Inspectors General, the Office of Special Counsel or the Equal Employment Opportunity Commission.

(2) *Employee* means any officer or employee, including a special Government employee, covered by any of the provisions contained in part 735 of this title.

(3) *Head of an agency,* in the case of an agency that is headed by a board, committee or other group of individuals, refers to the employee's appointing authority.

(4) *Corrective action* means any action necessary to remedy a violation of an ethics provision including, but not limited to, recusal, divestiture, termination of an activity, restitution, or the creation of a qualified blind or diversified trust.

(5) *Disciplinary action* includes the full range of disciplinary actions provided for by Office of Personnel Management regulations and instructions implementing authorities contained in title 5 of the United States Code or provided for in comparable authorities applicable to employees not subject to title 5.

(6) The terms "he," "his" and "him" include "she," "hers" and "her."

(c) *Violations of criminal statutes.* Nothing contained in this part gives the Director or any agency official authority to make a finding that any criminal statute relating to conflicts of interest is being or has been violated. If facts elicited under these procedures indicate that a criminal violation of any such provision is occurring or has occurred, the suspected violation will be referred for possible prosecution in accordance with 28 U.S.C. 535 and the reporting requirements set forth in § 2638.603 of this chapter shall apply. Subsequent to referral, proceedings under this subpart may be initiated or continued at the discretion of the Director, after consultation with the appropriate investigatory or prosecutorial authorities.

§ 2638.502 Recommendations and advice.

The Director may make recommendations and provide advice to agencies, designated agency ethics officials and employees for the purpose of ensuring an employee's compliance with applicable ethics provisions. This authority may be used where there is doubt or a dispute regarding the applicability of an ethics provision or where the Director has information indicating that an ethics provision is being improperly interpreted. Recommendations may be made or advice provided on the Director's own initiative or at the Director's discretion in response to a written or oral request. As determined by the Director, the recommendation may be made or the advice given either orally or in writing. In addition, the Director shall afford an employee the opportunity for personal consultation, if practicable, regarding action required to be taken by the employee to achieve compliance with applicable ethics provisions.

§ 2638.503 Agency investigations.

(a) *Recommendation of investigation.* If the Director has reason to believe that an employee is violating or has violated any ethics provision, the Director may recommend to the head of the agency that the agency conduct such investigation as is necessary to determine whether, in fact, a violation is occurring or has occurred and, where warranted, take appropriate disciplinary or corrective action. If the matter already has been investigated or if the facts are fully known to the agency and, in the opinion of the agency head, require no further investigation, the head of the agency shall notify the Director of that determination and shall promptly file the agency report required by paragraph (c) of this section.

(1) If the employee involved is the head of an agency, the recommendation shall be made to the President and the procedures set forth in this section shall serve as guidance only.

(2) Where there is reason to believe that an employee has given preferential treatment or failed to act impartially, this authority will not be used to initiate an investigation in the nature of a review or audit of the agency program in which the employee participated.

(b) *Initiation of investigation.* The head of the agency shall notify the Director when the agency has initiated an investigation. Where it is anticipated that the investigation will not be completed within 60 calendar days, the head of the agency will notify the Director of that fact and provide an explanation reasonably justifying additional time.

(c) *Agency report.* The head of the agency shall file a report with the Director detailing findings of fact and disciplinary and/or corrective actions taken, if any.

(d) *Director's determination.* The Director will make a determination based on the agency investigation and report.

(1) If the Director determines that the agency has conducted an adequate investigation and has taken appropriate corrective and/or disciplinary action, the Director shall notify the agency that the matter is closed.

(2) If the Director determines that the agency has conducted an adequate

investigation and has recommended appropriate corrective and/or disciplinary action, the Director shall notify the agency that the matter will be closed upon notification that such action has been taken.

(3) If the Director determines that the agency has not conducted an adequate investigation, the Director may recommend that the agency undertake further investigative effort.

(4) If the Director determines that the agency has improperly interpreted an ethics provision or improperly applied an ethics provision to the facts of the case, the Director may, in accordance with § 2638.502, provide advice and recommendations necessary to ensure compliance.

(5) If the Director determines that the agency has taken or recommended inappropriate corrective or disciplinary action, the Director may notify the head of the agency of intent to institute proceedings under § 2638.504 or § 2638.505.

(e) *Notice of noncompliance.* If the Director determines that the head of an agency has failed to conduct an adequate investigation within a reasonable period of time, the Director shall notify the President of that determination. A Notice of Noncompliance will not be based upon a determination that the agency has improperly interpreted or applied an ethics provision or that the agency has taken or recommended inappropriate corrective or disciplinary action.

§ 2638.504 Director's finding.

(a) *In general.* If the Director has reason to believe that an employee is violating or has violated an ethics provision, the Director may initiate proceedings under this section for the purpose of making a finding as to whether there is or has been such a violation. In the context of such proceedings, the Office of Government Ethics has the burden of proof to establish that the employee is violating or has violated an ethics provision. The procedures contained in this section do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title II of the Ethics Act. For those findings and orders, the procedures contained in section 206 of the Act shall apply.

(b) *Investigation.* The Director may initiate such investigation as is necessary to determine whether proceedings under this section are warranted. Ordinarily, a determination to proceed will be based upon an agency report of investigation filed under § 2638.503(c) and a determination by the Director under § 2638.503(d)(5) that the agency has taken or recommended inappropriate corrective or disciplinary action.

(c) *Notice.* The employee shall be served personally or by United States mail with written notice of commencement of proceedings under this section. A copy of the notice shall be provided to the head of the agency and to the designated agency ethics official. The notice shall be signed by the Director and shall include the following:

(1) A brief statement setting forth the basis for a possible ethics violation;

(2) A copy of this section; and

(3) The date by which the employee's comments must be submitted.

(d) *Employee comments.* The respondent employee has the right to comment on the alleged violation of an ethics provision by submission of evidence or arguments. As determined by the Director, the submission may be made orally or in writing. In the absence of an extension granted by the Director for good cause shown, comments shall be submitted within the time set forth in the notice

(e) *Finding.* The Director will make a written finding as to whether a violation of any ethics provision has occured or is occurring. The finding will include a statement of the facts upon which the finding is based and a reference to the specific ethics provision in issue. A copy of the finding will be provided to the respondent employee, the head of the agency and the designated agency ethics official.

§ 2638.505 Director's decision and order.

(a) *In general.* Where the Director has reason to believe that an employee is violating an ethics provision, the Director may, subject to the procedures set forth in this section, issue an order that the employee take specific corrective action to remedy the violation. Ordinarily, a determination to proceed under this paragraph (a) will be based on the Director's finding under § 2638.504(e) that an ethics violation has occurred or is occurring and reason to believe that the violation is continuing. The procedures contained in this section do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title II of the Ethics Act. For those findings and orders, the procedures contained in section 206 of the Act shall apply.

(b) *Notice.* The employee will be served, personally or by United States mail, with notice of proceedings to determine whether a violation of an ethics provision is occurring and whether corrective action is necessary to end the violation. The notice shall specify the employee's right to present evidence or arguments either in writing or, at the employee's written request, at a hearing conducted on the record. The notice shall be signed by the Director and shall include:

(1) A brief statement setting forth the basis for a possible ethics violation;

(2) Where applicable, a copy of the Director's finding under § 2638.504(e);

(3) A statement of the authority under which proceedings are to be conducted, together with a copy of this section; and

(4) The date by which the employee must, by written notification to the Director, elect to present evidence and arguments either at a hearing or in writing.

(c) *Separation of functions.* Once the Director has issued a notice of proceedings and if the respondent employee has elected to have a hearing conducted on the record, the General Counsel of the Office of Government Ethics shall designate attorneys of the Office of Government Ethics to participate on behalf of the Office in the proceedings, including the investigation and presentation of the evidence at the hearing. During this time period, the General Counsel of the Office of Government Ethics shall serve as Advisor to the Director and will not supervise Office of Government Ethics attorneys who are charged with the investigation and presentation of the evidence in the pending matter. A Deputy General Counsel shall supervise the Office attorneys responsible for the investigation and presentation of the evidence during this time period. No officer, employee, or agent engaged in the performance of investigative or advocacy functions for the Office of Government Ethics shall, in that or a factually related case, participate or advise in the decision, recommended decision or Office review except as witness or counsel in the proceedings.

(d) *Written submissions.* Where the respondent employee elects to submit evidence and arguments in writing, he will be given a period of 30 calendar days from the date of the notice within which to make a submission.

(e) *Hearings.* If the respondent employee demands a hearing conducted on the record, he will be given written notice of the time and place of the hearing. The hearing will be convened within a reasonable period of time and will be conducted on the record. An administrative law judge who has been appointed under 5 U.S.C. 3105 shall act as the presiding official at the hearing. Hearings will be as informal as may be reasonably appropriate under all the

circumstances. Evidence and testimony, although not ordinarily admissible under rules of evidence, may be received subject to the discretion of the administrative law judge. Immaterial, irrelevant or unduly repetitious evidence may be excluded. The parties may stipulate as to any facts or testimony. The testimony of witnesses shall be under oath and witnesses shall be subject to cross-examination. The administrative law judge shall make such rulings with respect to the conduct of the hearings as circumstances may require to ensure the orderly and expeditious presentation of evidence in a manner fair to the parties and consistent with these regulations and requirements of due process of law. The following procedures will apply to the hearing:

(1) *Conference.* The respondent employee or the designated attorney for the Office of Government Ethics may request, and the administrative law judge, on his own initiative or in response to a request, may set a prehearing conference for such purposes as the administrative law judge deems necessary.

(2) *Public hearings.* Hearings shall be open to the public. However, the administrative law judge may order a hearing or any part thereof closed, on his own initiative or upon motion of a party or other affected person, where to do so would be in the best interests of the respondent employee, a witness, the public or other affected persons. Any order closing the hearing or any part thereof shall set forth the reasons for the administrative law judge's decision. Any objections thereto shall be made a part of the record. If a party or affected person's request to close the hearing or any part thereof is denied by the administrative law judge, that request shall be immediately appealable to the Director and the hearing shall be held in abeyance pending resolution of the appeal. The notice of appeal shall be filed in writing, not to exceed 10 pages exclusive of attachments, with the Director within 3 working days of the administrative law judge's denial of the request. The Director shall provide an opportunity for an oral hearing on the appeal conducted on the record and shall decide the appeal within 3 working days following receipt of the notice of appeal.

(3) *Continuances and delays.* The authority to adjourn the hearing shall rest with the administrative law judge. Continuances will be allowed only for the most compelling reasons.

(4) *Hearing record.* Testimony and arguments shall be recorded verbatim and preserved for a reasonable period of time. When requested, transcripts of the testimony and arguments and copies of all documentary exhibits will be made available to the respondent employee upon the payment of the reasonable costs thereof.

(5) *Representation.* A party is entitled to appear in person or by or with counsel.

(6) *Witnesses.* The administrative law judge does not have the authority to subpoena witnesses. However, the respondent employee and the Office of Government Ethics may call witnesses whose testimony is relevant and necessary to the proceedings. Witnesses who are to testify or to produce documents in their official capacities will be assigned to do so by their agencies pursuant to 5 U.S.C. 6322 and will be paid travel expenses under 5 U.S.C. 5702. Witnesses who are not Federal employees may be issued invitational travel orders under 5 U.S.C. 5703 based on a determination by the administrative law judge that their testimony is essential to the proceedings.

(7) *Proof.* The Office of Government Ethics has the burden of proof to establish that the respondent employee is committing a violation of an ethics provision and that corrective action is necessary to end the violation.

(8) *Evidence.* A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination. The respondent employee and the designated attorney for the Office of Government Ethics may offer evidence, arguments, testimony of witnesses, affidavits or sworn statements.

(f) *Recommended decision.* At the conclusion of the hearing, the administrative law judge may request that the parties submit proposed findings and conclusions within a reasonable period of time. After receipt of the proposed findings and conclusions, if any, the administrative law judge shall certify the entire record to the Director for decision. When so certifying the record, the administrative law judge shall make a recommended decision that includes his written findings of fact and conclusions of law with respect to material issues.

(g) *Decision and order.* The Director's decision shall include written findings and conclusions with respect to all material issues and shall be supported by substantial evidence of record. The order shall state the corrective action, if any, to be taken by the respondent employee in order to remedy a violation of an ethics provision and shall establish a reasonable period of time within which the respondent employee must commence and complete the corrective action. A copy of the decision and order shall be furnished to the respondent employee and to the head of the agency and the designated agency ethics official, or where the respondent employee is the head of an agency, to the President.

(1) Where the respondent employee has elected to have a hearing conducted on the record, the Director shall issue a decision and order as soon as practicable following receipt of the certified record and the administrative law judge's recommended decision.

(2) Where the respondent employee has elected to make a written submission under paragraph (d) of this section or has chosen to make no submission and has not requested a hearing, the Director will issue a decision and order as soon as practicable following receipt of all materials of record.

(3) In addition to the decision and order and any finding issued under § 2638.504(e), the record will include, where applicable, all written submission under § 2638.504(d) and § 2638.505(d), a record of the hearing, all documentary evidence introduced at the hearing, any proposed findings and conclusions submitted by the parties and the administrative law judge's recommended decision.

(h) *Compliance with the order.* The respondent employee shall comply with the Director's order by commencing and completing the corrective action within the time specified in the order and by furnishing the Director with satisfactory evidence of compliance.

(i) *Notice of noncompliance.* Where the respondent employee fails to comply with the Director's order within the time specified in the order, the Director will provide the head of the respondent employee's agency with written notice of the respondent employee's failure to comply. Where the respondent employee is the head of the agency, the Director shall submit such notification to the President.

§ 2638.506 Director's recommendation.

(a) Where the Director has made a finding under § 2638.504(e) or has issued a decision and order under § 2638.505(g) that an ethics provision is being or has been violated, the Director may recommend to the head of the

respondent employee's agency that appropriate disciplinary action be taken. If the respondent employee is the head of an agency, the Director shall make any such recommendation to the President and the procedures contained in this section will serve as guidance only.

(b) *Agency response.* Within the time specified by the Director in his recommendation, the head of the agency shall notify the Director in writing of the action taken. If the action cannot be accomplished within the time specified, the head of the agency shall notify the Director in writing of the time needed for the action to be taken, and, thereafter, will provide appropriate notice of the disciplinary action taken.

(c) *Notice of noncompliance.* If the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director has recommended such action, the Director may notify the President of that determination in writing.

Subpart F—Agency Reports

§ 2638.601 In general.

Agencies are required by section 402(b)(10) of the Act to file such reports as the Director of the Office of Government Ethics deems necessary. Section 402(e) contains specific requirements for annual reports and for reporting cases referred for possible prosecution under 28 U.S.C. 535. Reporting requirements imposed under this subpart are in addition to any requirements for reports or opinions contained in part 735 of this title, parts 2633 through 2637 of this chapter, or otherwise under this chapter, and in other subparts of this part.

§ 2638.602 Annual agency reports.

(a) On or before February 1 of each year, each agency shall file with the Office of Government Ethics a report containing information about the agency's ethics program. Detailed reporting requirements will be specified in instructions to be issued by the Director in advance of the first day of the period to be covered by the annual report. Annual agency reports will cover the prior calendar year and, as a minimum, will include the following:

(1) The name, position, title and duties of each official who performs any or all of the duties of the designated agency ethics official or alternate;

(2) Statistics regarding public and nonpublic (confidential) financial disclosure report filings;

(3) A description and evaluation of the agency's program of ethics education, training and counseling, including the number of training courses given, the subject matters covered, training materials distributed and counseling services offered.

(b) Failure to timely file the report required by paragraph (a) of this section may be cause to invoke the procedures at subpart D of this part for correction of agency programs.

§ 2638.603 Reports of referral for possible prosecution.

(a) *In general.* Section 535 of title 28 of the United States Code imposes upon every agency a duty to report to the Attorney General any information, allegations or complaints relating to violations of title 18 of the United States Code involving Government officers and employees, including possible violations of 18 U.S.C. 207 by former officers and employees. Guidelines issued by the Attorney General require reporting of such allegations or complaints to the local office of the appropriate investigative agency, the United States Attorney for the district in which the violation occurred or is occurring and the appropriate division of the Department of Justice.

(b) *Report of referral.* When any matter is referred pursuant to 28 U.S.C. 535, the agency shall concurrently notify the Director of the Office of Government Ethics of the referral and provide a copy of the referral document, unless such notification or disclosure would otherwise be prohibited by law.

(c) *Disposition reports.* (1) Where there has been notice that the matter will not be prosecuted, the agency shall promptly notify the Director of that fact, the date of the decision and any disciplinary or corrective action initiated, taken or to be taken by the agency.

(2) When the agency is notified or learns from the Department of Justice that an indictment has been handed up and signed or an information has been filed, the agency shall promptly report that fact to the Director. Thereafter, the agency shall promptly notify the Director of the final disposition of the prosecution and of any disciplinary or corrective action initiated, taken or to be taken by the agency.

(3) When disciplinary or corrective action is initiated or is to be taken, the agency will notify the Director of the final disposition of the matter.

[FR Doc. 90-1175 Filed 1-17-90; 8:45 am]

BILLING CODE 6345-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 275

[Amdt. 309]

Food Stamp Program; Quality Control Technical Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On January 27, 1989 (54 FR 4037) the Department of Agriculture published proposed regulations to amend provisions concerning the Food Stamp Program's arbitration of quality control reviews. Those regulations proposed a 150 day time limit from the date of publication of the final rule on a state's request for arbitration of quality control reviews received by a State agency before February 22, 1988. Currently, only quality control reviews received by a State agency after February 22, 1988 are subject to a time limit on the state's request for arbitration. This action finalizes the time limit on reviews received by the state prior to February 22, 1988.

DATE: This final rule is effective February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connell, Supervisor, Quality Control Policy Section, Program Accountability Division, Food Stamp Program, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 756-3471.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department has classified this rule as non-major. The rule will not have an annual effect on the economy of $100 million or more. The rule will have no effect on costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. Further, the rule will not have 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.

Regulatory Flexibility Act. This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980. 5 U.S.C. 601-612. G. Scott Dunn, Acting Administrator of

the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act. This rulemaking does not contain recordkeeping or data collection requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980. 44 U.S.C. 3501–3520.

Executive Order 12372. The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related notice(s) to 7 CFR part 3015, subpart V, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

On January 27, 1989 the Department proposed regulations to amend the quality control arbitration process to require State agencies to submit any requests for [1] regional office arbitration of regional case findings which the State agency received before February 22, 1988, or [2] national office arbitration of regional arbitration decisions received before February 22, 1988, within 150 days from the date of publication of the final rule. The 150 day period is based on the standard 30 days for a final rule to become effective and a 120 day period for State agencies to prepare and submit their requests. February 22, 1988 is the effective date of the regulation that requires State agencies to submit their requests for regional office arbitration of regional case findings or for national office arbitration of regional arbitration decisions within 28 days of the state's receipt of case findings. 7 CFR 275.3 (c)(4) (i)(A) and (ii)(A). The Department received 10 comment letters concerning the proposed rule.

Two commenters supported the proposed regulation. One of these commenters suggested that individual cases should be subject to further review as part of the "Grant Appeals Board process" regardless of whether or not a state had decided to request arbitration of the review findings within the proposed 150 days. Decisions regarding arbitration are not reviewable.

Eight commenters were opposed to the establishment of a time limit for submitting arbitration requests for these cases. Three commenters considered 150 days to be insufficient time for them to review all of the cases prior to February 22, 1988 in order to ensure that an accurate Payment Error Rate (PER) had been calculated. Of particular concern to two commenters were underissuance error cases, which were not included in the PER at the time of the original reviews but which will be included in the PER pursuant to section 604 of the Hunger Prevention Act of 1988 (Public Law 100–435). 7 U.S.C. 2025(c)(2)(A). Proposed solutions included expanding the 150 day time frame to one year and granting a 180 day time frame for each of the quality control review periods in question.

The Department considered these recommendations but decided not to adopt them. The Department conducted an analysis of underissuance cases from the FY86 and FY87 review periods in response to commenters' concerns. This analysis revealed that the number of underissuance cases in which the state and federal findings were in disagreement, and thus are subject to possible arbitration, is not significant, and would not justify allowing additional time for the preparation of possible arbitration requests. Further, the Department considers 150 days to be sufficient for a State agency to submit requests for arbitration because the State agency necessarily completed its review of households' circumstances before the Federal reviews were conducted. In preparing its cases for arbitration, the State agency is simply ensuring that all of its verification, documentation, and the supporting material for its findings are included in its submittal(s) for arbitration.

Six commenters expressed concern that this rule would eliminate an avenue of redress that State agencies now possess to ensure that an accurate PER, upon which fiscal sanctions are based, has been determined. The Department considered these comments but decided not to adopt them because an open-ended arbitration system does not allow for timely establishment of statutorily mandated quality control claims. Current quality control reviews are under a 28 day time limit to request regional arbitration of regional review findings, or national arbitration of regional arbitration findings. The Department considers it to be inconsistent to restrict current cases to 28 days, while allowing the time frames for older cases to remain open-ended. The Department considers 150 days from the date of publication of the final rule to be more than sufficient time to address any disagreements over the correct review findings for these cases.

One commenter opposed the rule on the grounds that it would change the rules under which the error rates are calculated. The commenter stated that all rules governing the calculation of the error rates and fiscal sanctions should be known to the state prior to the review process, and contend that this position is supported by the study of the Food Stamp Quality Control System conducted by the National Academy of Science (NAS). The Department considered this comment but decided not to adopt it. This rule would not affect the actual quality control review procedures that were utilized by both state and federal reviewers in completing cases prior to February 22, 1988. In addition, the Department can find no reference in the NAS study recommending against this type of change. The NAS study's section entitled "Financial Liabilities for Past Performance" states: "In order for state and federal officials to clear that backlog of liabilities, claims, and appeals as quickly as possible in order to get on with the business at hand and for the future, the panel recommends solutions of expedience * * *". *Rethinking Quality Control: A New System for the Food Stamp Program*, published 1987, National Academy Press, page 160. Although the NAS recommendations do not specifically refer to arbitration time frames, they do recognize the need for retroactive changes in order to establish error rates and fiscal sanctions for prior review periods.

Implementation

The Department is requiring implementation of the arbitration time frames effective June 18, 1990.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, parts 272 and 275 of subchapter C of chapter II of title 7, Code of Federal Regulations are amended as follows:

1. The authority citation appearing after the table of contents for parts 272 and 275 continues to read as follows:

Authority: 7 U.S.C. 2011–2029.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, new paragraph (g)(112) is added in numerical order to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(112) *Amendment No. 309.* (i) The State agency shall have until June 18, 1990, to request regional arbitration of regional office case findings which the State received before February 22, 1988.

(ii) The State agency shall have until June 18, 1990, to request national office arbitration of regional arbitration decisions which the State agency received before February 22, 1988.

PART 275—PERFORMANCE REPORTING SYSTEM

3. In § 275.3, paragraphs (c)(4)(i)(D), and (c)(4)(ii)(C) are added to read as follows:

§ 275.3 Federal monitoring.

* * * * *

(c) *Validation of state agency error rates.* * * *

(4) *Arbitration.* * * *

(i) *Regional level.* * * *

(D) The State agency shall have until June 18, 1990, to request regional arbitration of regional office case findings which the State received before February 22, 1988.

(ii) *National level.* * * *

(C) The State agency shall have until June 18, 1990, to request national office arbitration of regional arbitration decisions which the State agency received before February 22, 1988.

* * * * *

Dated: January 11, 1990.

George A. Braley,

Acting Administrator.

[FR Doc. 90-1123 Filed 1-17-90; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 88F-0381]

Indirect Food Additives, Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sodium poly(isopropenylphosphonate) in paper mill boilers, used in the manufacture of paper and paperboard for food-contact use. This action is in response to a petition filed by Betz Laboratories, Inc.

DATES: Effective January 18, 1990; written objections and requests for a hearing by February 20, 1990.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 6, 1989 (53 FR 482), FDA announced that a food additive petition (FAP 9B4114) had been filed by Betz Laboratories, Inc., Somerton Rd., Trevose, PA 19047, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of poly(isopropenylphosphonic acid), sodium salt in the manufacture of paper and paperboard for food-contact use.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of the additive in the manufacture of paper and paperboard is safe, and that the regulations should be amended in § 176.170 in paragraph (a)(5) in the table by alphabetically adding a new entry.

FDA, in its review of the nomenclauture for this additive, finds that the term "sodium poly(isopropenylphosphonate)" is a more concise name for the additive than the name listed in the filing notice. The agency also finds that the additive is used only in paper mill boilers. Therefore, FDA is adopting the preferred name for the additive and is designating the intended use of the additive in § 176.170.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before February 20, 1990, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 376).

2. Section 176.170 is amended in paragraph (a)(5) by alphabetically adding a new entry in the table to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Sodium poly(isopropenylphosphonate) (CAS Reg. No. 118632-18-1).	For use only in paper mill boilers.
* * * * *	

* * * * *

Dated: January 4, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-1078 Filed 1-17-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 510

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

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 name from CEVA Laboratories, Inc., to Sanofi Animal Health, Inc.

EFFECTIVE DATE: January 18, 1990.

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: Sanofi Animal Health, Inc., 7101 College Blvd., Suite 610, Overland Park, KS 66210, advised FDA of a change of corporate name from CEVA Laboratories, Inc., to Sanofi Animal Health, Inc. The agency is amending the regulations in 21 CFR 510.600(c)(1) and (2) to reflect the change.

List of Subjects in 21 CFR Part 510

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

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 part 510 is amended as follows:

PART 521—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry "CEVA Laboratories, Inc.," and by alphabetically adding an entry "Sanofi Animal Health, Inc.," and in the table in paragraph (c)(2) in the entry for "050604" by revising the sponsor name 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
* * * * *	
Sanofi Animal Health, Inc., 7101 College Blvd., Suite 610, Overland Park, KS 66210	050604
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
050604	Sanofi Animal Health, Inc., 7101 College Blvd., Suite 610, Overland Park, KS 66210.
* * * * *	

Dated: January 11, 1990.

Robert C. Livingston,

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

[FR Doc. 90-1122 Filed 1-17-90; 8:45 am]

BILLING CODE 4160-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-1

General Services Administration Property Management Regulations; Deviation

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: Federal Property Management Regulation (FPMR) Amendment A-46 (final rule) which was published in the **Federal Register** on September 12, 1989, (54 FR 37651) deleted some outdated references and revised references to reflect the current FPMR system. It also established a more flexible policy for granting deviations from the requirements of the FPMR. Since 41 CFR Chapter 105-1 has an identical section on deviation, this final rule revises the section on deviation to reflect the current section in the FPMR.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier; Directives and Correspondence Management Branch; 202-566-0666.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA 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 alternate approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105-1

Government property management.

Title 41, part 105-1 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 41 CFR part 105-1 continues to read as follows:

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

2. Section 105-1.110 is revised to read as follows:

§ 105-1.110 Deviation.

(a) In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations; i.e., the use of any policy or procedure in any manner that is inconsistent with a policy or procedure prescribed in the Federal Property Management Regulations, are prohibited unless such deviations have been requested from and approved by the Administrator of General Services or his authorized designee. Deviations may be authorized by the Administrator of General Services or his authorized designee when so doing will be in the best interest of the Government. Request for deviations shall clearly state the nature of the deviation and the reasons for such special action.

(b) Requests for deviations from the FPMR shall be sent to the General Services Administration for consideration in accordance with the following:

(1) For onetime (individual) deviations, requests shall be sent to the address provided in the applicable regulation. Lacking such direction, requests shall be sent to the Administrator of General Services, Washington, DC 20405.

(2) For class deviations, requests shall be sent to only the Administrator of General Services.

Dated: December 28, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 90-1147 Filed 1-17-90; 8:45 am]

BILLING CODE 6820-34-M

Federal Supply Service

41 CFR Part 302-11

[FTR Amdt. 5]

RIN 3090-AD45

Federal Travel Regulation; Relocation Income Tax Allowance

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: The Federal and State tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal and State income tax brackets and rates. The Federal and State tax tables contained in this rule are for calculating the 1990 RIT allowances to be paid to relocating Federal employees.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Richard Sturdy, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

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 41 CFR Part 302-11

Government employees, Income taxes, Transfers, Travel and transportation expenses, Relocation allowances and entitlements.

For the reasons set out in the preamble, 41 CFR part 302-11 is amended as follows:

PART 302-11—RELOCATION INCOME TAX (RIT) ALLOWANCE

1. The authority citation for part 302-11 continues to read as follows:

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747); E.O. 12466, February 27, 1984 (49 FR 7349).

2. Appendixes A, B, and C to part 302-11 are amended by adding the following tables at the end of each appendix, respectively:

Appendix A to Part 302-11—Federal Tax Tables for RIT Allowance

* * * * * * *

Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1989

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1989.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$5,320	$24,111	$9,061	$33,963	$12,940	$43,397	$6,723	$23,089
28	24,111	50,311	33,963	71,688	43,397	84,030	23,089	54,177
33	50,311	110,883	71,688	164,538	84,030	198,284	54,177	145,523
28	110,883		164,538		198,284		145,523	

Appendix B to Part 302-11—State Tax Tables for RIT Allowance

* * * * * * *

State Marginal Tax Rates By Earned Income Level—Tax Year 1989

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees who received covered taxable reimbursements during calendar year 1989.

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000-$24,999	$25,000-$49,999	$50,000-$74,999	$75,000 & over
1. Alabama	5	5	5	5
2. Alaska	0	0	0	0

APPENDIX B TO PART 302-11—STATE TAX TABLES FOR RIT ALLOWANCE—Continued

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column [1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & over
3. Arizona	6	8	8	8
If single status [3]	8	8	8	8
4. Arkansas	4.5	7	7	7
If single status [3]	6	7	7	7
5. California	2	6	9.3	9.3
If single status [3]	6	9.3	9.3	9.3
6. Colorado	5	5	5	5
7 Connecticut	0	0	0	0
8 Delaware	6	7.6	7.7	7.7
If single status [3]	6	7.7	7.7	7.7
9. District of Columbia	8	9.5	9.5	9.5
10. Florida	0	0	0	0
11. Georgia	6	6	6	6
12. Hawaii	8	9.5	10	10
If single status [3]	9.5	10	10	10
13. Idaho	7.5	7.8	8.2	8.2
If single status [3]	7.8	8.2	8.2	8.2
14. Illinois	2.75	2.75	2.75	2.75
15. Indiana	3.4	3.4	3.4	3.4
16. Iowa	6.8	8.8	9.98	9.98
If single status [3]	7.2	8.8	9.98	9.98
17. Kansas	3.65	5.15	5.15	5.15
If single status [3]	4.5	5.95	5.95	5.95
18. Kentucky	6	6	6	6
19. Louisiana	2	4	4	6
If single status [3]	4	4	6	6
20. Maine	4.5	8.5	8.5	8.5
If single status [3]	8.5	8.5	8.5	8.5
21. Maryland	5	5	5	5
22. Massachusetts	5.375	5.375	5.375	5.375
23. Michigan	4.6	4.6	4.6	4.6
24. Minnesota	6	8	8	8.5
If single status [3]	8	8.5	8.5	8.5
25. Mississippi	5	5	5	5
26. Missouri	6	6	6	6
27. Montana	7	10	11	11
If single status [3]	8	10	11	11
28. Nebraska	3.1	4.8	5.9	5.9
If single status [3]	4.8	5.9	5.9	5.9
29. Nevada	0	0	0	0
30. New Hampshire	0	0	0	0
31. New Jersey	2	2.5	3.5	3.5
32. New Mexico	3.8	6.9	7.7	8.5
If single status [3]	5.8	8.5	8.5	8.5
33. New York	5	7.875	7.875	7.875
If single status [3]	7.875	7.875	7.875	7.875
34. North Carolina	7	7	7	7
35. North Dakota	*17 percent of Federal income tax liability [4]			
36. Ohio	2.972	4.457	5.201	6.9
If single status [3]	3.715	5.201	5.201	6.9
37. Oklahoma	4	6	6	6
If single status [3]	6	6	6	6
38. Oregon	9	9	9	9
39. Pennsylvania	2.1	2.1	2.1	2.1
40. Rhode Island	*22.96 percent of Federal income tax liability [4]			
41. South Carolina	7	7	7	7
42. South Dakota	0	0	0	0
43. Tennessee	0	0	0	0
44. Texas	0	0	0	0
45. Utah	7.35	7.35	7.37	7.35
46. Vermont	*25 percent of Federal income tax liability [4]			
47. Virginia	5	5.75	5.75	5.75
If single status [3]	5.75	5.75	5.75	5.75
48. Washington	0	0	0	0
49. West Virginia	4	4.5	6.5	6.5
If single status [3]	4	6	6.5	6.5
50. Wisconsin	6.55	6.93	6.93	6.93
If single status [3]	6.93	6.93	6.93	6.93
51. Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302-11.8(e)(2)(b).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302-11.8(e)(2).

APPENDIX C TO PART 302-11—FEDERAL TAX TABLES FOR RIT ALLOWANCE—YEAR 2

* * * * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1990

The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1983, 1984, 1985, 1986, 1987, 1988, or 1989.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$5,556	$25,167	$9,824	$35,312	$12,652	$44,759	$6,885	$23,089
28	25,167	51,042	35,312	75,233	44,759	84,283	23,089	50,147
33	51,042	112,588	75,233	170,564	84,283	200,559	50,147	148,107
28	112,588		170,564		200,559		148,107	

Dated: December 26, 1989.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 90-1060 Filed 1-17-90; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Establish Office of International Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to the increasingly global character of communications issues, the Commission is establishing the Office of International Communications. The office will enable the Commission to promote the vital interests of the American people in international communications and competitiveness.

EFFECTIVE DATE: February 20, 1990.

FOR FURTHER INFORMATION CONTACT: Karl Brimmer, 202-632-3906.

SUPPLEMENTARY INFORMATION:

1. This is a synopsis of the Commission's *Order* adopted October 26, 1989 and released January 5, 1990. The full text of this *Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street, NW. Suite 140, Washington, DC 20037.

Summary of Order

2. In recent years, international activities within the Commission have been handled within the operating Bureaus and Offices by separate international staffs. Several factors have prompted a reassessment of the international areas: (1) Technologies and international regulatory fora have converged across traditional regulatory classifications; (2) Negotiations and trade-offs of international issues must be fully coordinated; (3) Communications policy making has become a global issue; and (4) A core international staff, rather than rotating the lead responsibility among Bureaus, will yield greater international negotiating expertise and credibility for those involved.

3. This office will not replace the existing bureaus in the execution of the various international responsibilities. Rather, the new Office of International Communications will: (1) Ensure the integration of Commission international policy activities; (2) ensure that the Commission's international policies are uniform and consistent; (3) assume the principal representational role for Commission activities in international fora; and (4) serve as the focal point for international activities. The Director of International Communications will provide coordination among Bureaus with regard to development of international policy, representation of this policy and participation in international conferences. Additionally, the Director will facilitate Commission guidance of Bureau's international activities.

4. The amendments adopted herein pertain to agency organization. Therefore, the prior notice and provisions of section 4 of the Administrative Procedures Act are inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

5. In view of the foregoing, *it is ordered,* effective 30 days after publication in the **Federal Register** that part 0 of the Rules and Regulations is amended as set forth below.

List of Subjects in 47 CFR Part 0

Organization and functions, Practice and procedures.

Part 0 of chapter 1 of Title 47 of the Code of Federal Regulations is hereby amended as indicated below:

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

Authority: 47 U.S.C. 154, 303 unless otherwise noted. Implement 5 U.S.C. 552, unless otherwise noted.

2. Sec. 0.5 is amended by revising paragraph (a)(13) to read as follows:

§ 0.5 General description of Commission organization and operations:

(a) * * *

(13) Office of International Communications.

* * * * *

3. Section 0.51 and a centered heading preceding the section are added to read as follows:

Office of International Communications

§ 0.51 Functions of the Office.

The Office of International Communications has the following duties and responsibilities:

(a) Provide coordination among Bureaus and Offices with regard to development and representation of international policy and participation in international conferences.

(b) Coordinate Commission collection and dissemination of information on communications and telecommunications policy, regulatory, and market developments by other countries and international organizations.

(c) Coordinate Commission briefings on international telecommunications matters.

(d) Work with the Office of Legislative Affairs to coordinate Commission international activities on significant matters with appropriate Congressional offices.

(e) Coordinate and maintain liaison with key officials of other governments and international organizations.

(f) Advise the Chairman and Commissioners on international policy matters.

(g) Advise the Commission on the adequacy of Commission actions to promote the vital interest of the American public in commerce, defense and foreign policy.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-955 Filed 1-17-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

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

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6853; 34-27604; 35-25021; 39-2235; IC-17302; IA-1216; S7-2-90]

Privacy Act of 1974, Specific Exemptions; Organization, Information and Requests

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule with request for comments.

SUMMARY: The Chairman of the Securities and Exchange Commission ("Commission"), with the concurrence of the Commission, proposes to exempt a new system of records from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a ("Privacy Act"), to the extent that the system contains investigatory material pertaining to the enforcement of criminal laws or compiled for law enforcement purposes. The system of records includes the investigative files of the Office of Inspector General of the Commission.

DATE: Comments must be received on or before February 20, 1990.

ADDRESS: Persons wishing to submit written comments should file 3 copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Reference should be made to File No S7-2-90. Copies of the submission and all written comments will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Carol K. Scott ((202) 272-2474) or Kimberly Warren ((202) 272-3610), Office of the General Counsel, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Elsewhere in today's issue of the **Federal Register**, the Commission is proposing a new system of records under the Privacy Act of 1974. The system, entitled Office of Inspector General Investigative Files, contains investigatory material compiled for law enforcement purposes.

The Chairman of the Commission, with the concurrence of the Commission, proposes to exempt this new system of records from specified provisions of the Privacy Act. Section (j)(2) of the Privacy Act provides that the head of an agency may promulgate rules to exempt any system of records within the agency from any part of section 552a except suggestions (b), (c) (1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10), and (11), and (i), provided that the system of records is maintained by "the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws" and includes: "(A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision." Section 552a(k)(2) of the Privacy Act also provides that the head of an agency may promulgate rules to exempt any system of records within the agency from sections 552a(c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f) of the Act, if the system of records is "investigatory material compiled for law enforcement purposes."

If a system of records is not exempted from these sections, the Privacy Act generally requires the agency to: account for disclosures; permit individuals access to their records; permit individuals to request amendment to their records; maintain only necessary or relevant information in its system of records; publish certain information in the **Federal Register**; and promulgate rules that establish procedures for notice and disclosure of records. The exemptions that may be asserted with respect to investigatory systems of records permit an agency to protect information when disclosure would interfere with the conduct of the agency's investigations.

The Office of Inspector General Investigative Files contain information of the type described in the above mentioned exemptions to the Privacy Act. The Inspector General Act Amendments of 1988, 5 U.S.C. app. at 1184 (1988), authorize the Office of Inspector General of the Commission to conduct investigations to detect fraud and abuse in the programs and operations of the Commission and to assist in the prosecution of participants in such fraud or abuse. The Office of Inspector General of the Commission maintains information in this system of records pursuant to its law enforcement and criminal investigation functions. Exemptions under sections 552 (j)(2) and (k)(2) are necessary to maintain the integrity and confidentiality of the investigative files and to protect individuals from harm. Disclosure of information in these investigatory files or disclosure of the identity of confidential sources would seriously undermine the effectiveness of the Inspector General's investigations. Knowledge of such investigations also could enable suspects to take action to prevent detection of criminal activities, conceal or destroy evidence, or escape prosecution. Disclosure of this information could lead to intimidation of, or harm to, informants, witnesses, investigative personnel and their families. The imposition of certain restrictions on the manner in which information is collected, verified or retained could significantly impede the effectiveness of the investigations of the Office of Inspector General and could preclude the apprehension and successful prosecution of persons engaged in fraud or criminal activity.

Subsection 200.312(a) of subpart H, Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission, previously was promulgated to exempt various investigatory records from certain requirements of the Privacy Act. In connection with the establishment of the system of records containing the Office of Inspector General Investigative Files, the Chairman, with the concurrence of the Commission, proposes to amend part 200, subpart H

by adding a new section, 17 CFR 200.313, Inspector General Exemptions, pursuant to 552a(k)(2) and (j)(2) of the Privacy Act.

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments to part 200, subpart H will not, if adopted, have a significant impact on a substantial number of small entities. The certification is attached to this release. The Commission further finds that the proposed rule does not qualify as a "major rule" under Executive Order No. 12291 since it will not have an annual effect on the economy of $100 million or more.

List of Subjects in 17 CFR Part 200

Privacy, reporting and recordkeeping requirements.

For the reasons stated in the preamble, chapter II, title 17 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 200—[AMENDED]

Subpart H—Regulations Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Commission

1. The authority citation for part 200, subpart H is revised as follows:

Authority: Pub. L. 93–579, sec. (f), 5 U.S.C. 552a(f), unless otherwise noted.

Section 200.312 is also issued under Pub. L. 93–579, sec. k, 5 U.S.C. 552a(k).

Section 200.313 is also issued under Pub. L. 93–579, sec. j, 5 U.S.C. 552a(j) and sec. k, 5 U.S.C. 552a(k).

2. Part 200, subpart H is amended by adding § 200.313 as follows:

§ 200.313 Inspector General exemptions.

(a) Pursuant to section (j) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of Inspector General of the Commission that contains the Investigative Files shall be exempted from the provisions of 5 U.S.C. 552a, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and 17 CFR 200.303, 200.304, 200.306, 200.307, 200.308, 200.309 and 200.310, insofar as the system contains information pertaining to criminal law enforcement investigations.

(b) Pursuant to section (k) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the system of records maitnained by the Office of Inspector General of the Commission that contains the Investigative Files shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) and 17 CFR 200.303, 200.304, and 200.306, insofar as it contains investigatory materials compiled for law enforcement purposes.

By the Commission.

Dated: January 10, 1990.

Jonathan G. Katz,

Secretary.

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, Richard C. Breeden, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed revised rules implementing exemptions under the Privacy Act of 1974 for certain systems of records, set forth in Securities and Exchange Commission Release No. [*], if promulgated, will not have a significant economic impact on a substantial number of small entities. These rules pertain to exemptions from certain disclosure requirements under the Privacy Act. The Privacy Act applies to individuals only, and individuals are not "small entities" within the meaning of the Regulatory Flexibility Act.

*33–6853; 34–27804; 35–25021; 35–2235; IC–17302; IA–1216; S7–2–90.

Dated: January 8, 1990.

Richard C. Breeden,

Chairman.

[FR Doc. 90–1092 Filed 1–17–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD8–89–12]

Anchorage Grounds; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 7, 1989, the Coast Guard published a notice of proposed rulemaking (54 FR 46736) proposing to establish a deep draft anchorage on the Lower Mississippi River. Because of requests to discuss this matter further, the comment period is being extended for 40 additional days.

DATE: Comments must be received on or before January 31, 1990.

ADDRESSES: Comments should be mailed to Commander, Eighth Coast Guard District (oan), Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in room 1209 at the above address. Normal work hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG J. D. Irino, Project Officer, Commander Eighth Coast Guard District (oan), Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, Tel. (504) 589–4686.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking published on November 7, 1989, invited and encouraged interested persons to participate in this proposed rulemaking by submitting written views, data or arguments by December 22, 1989. Two persons requested an opportunity to further discuss this rulemaking, and additional time is being provided to allow them to update and revise their comments. Because of their requests, the comment period is extended for 40 additional days until January 31, 1990.

Comments should include the name and address of the person making them, identify this notice [CGD8–89–12] and the specific section of the proposal to which each comment applies, and give the reason for each comment. If an acknowledgment is desired, a stamped self-addressed post card or envelope should be enclosed. The rules as proposed may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Dated: January 5, 1990.

W. F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 90–1090 Filed 1–17–90; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85 and 600

[FRL-3705-9]

Air Pollution Control; Importation of Nonconforming Motor Vehicles and Motor Vehicle Engines; Public Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshop.

SUMMARY: On February 14, 1990, EPA will hold a public workshop to discuss proposed amendments to portions of EPA regulations at 40 CFR 85.1501 *et seq.*, as amended on September 25, 1987 (52 FR 36136). Specifically, the workshop is being held to discuss provisions related to the importation of motor vehicles and motor vehicle engines that were designed and built for sale in Canada. EPA will also discuss proposed revisions to the labeling requirements of 40 CFR part 600 (Fuel Economy of Motor Vehicles) and their applicability to 40 CFR 85.1501 *et seq.* Any questions or comments regarding the proposed changes will be discussed.

DATES: The workshop will be convened at 10 a.m. (e.s.t.) on February 14, 1990. Persons desiring to speak at the workshop with regard to the proposed changes should notify the EPA contact person listed below at least two weeks prior to the workshop.

ADDRESSES: The workshop will be held in the auditorium at the U.S. Environmental Protection Agency, Education Center, Waterside Mall, 401 M Street SW., Washington, DC 20460 (Phone: 202/475-7200). Materials relevant to rulemaking are contained in Public Docket No. A-89-20. The docket is located in the U.S. Environmental Protection Agency, Air Docket Section (LE-131), Room A-1500, Waterside Mall, 401 M Street SW., Washington, DC 20460. The docket may be reviewed on weekdays from 8:30 a.m. to noon and 1:30 p.m. to 3:30 p.m. As provided for in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Randall Chaffins, Investigation/Imports Section, Manufacturers Operations Division (EN-340F) U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (Phone: 202/382-2542 or FTS 382-2542).

SUPPLEMENTARY INFORMATION: The EPA regulations governing the importation of nonconforming vehicles were substantially revised on September 25, 1987 (52 FR 36136). This revision provides, with some limited exceptions, that only independent commercial importers (ICIs) who hold a currently valid certificate of conformity from EPA may import nonconforming vehicles into the United States. In particular, the regulations permit vehicles less than six years old to be imported only if they are subsequently modified and tested, if applicable, so as to be covered by a certificate of conformity. Vehicles that are six years old or older may also be imported, but under a less stringent modification and test program.

On November 24, 1987, EPA was petitioned to reconsider the regulations currently applicable to the commercial importation of new vehicle models which are originally designed and built for sale in Canada, but which are purportedly identical to vehicles certified by EPA and sold in the U.S. The petitioners maintained that, although these vehicles may not be labeled by the manufacturer as meeting U.S. emission requirements, the vehicles do not have to be mechanically modified to comply with such requirements and do not present air quality concerns similar to those presented by other imported nonconforming vehicles.

On June 29, 1988, EPA granted the petition for reconsideration and agreed to commence a rulemaking to address the unique issues surrounding Canadian vehicles. During the period of reconsideration, EPA stayed the effectiveness of the regulations with respect to those commercial importers of Canadian vehicles who agreed to operate according to an interim agreement with EPA. To take advantage of the conditional stay, each participating commercial importer has had to expressly agree to: (1) Import only preapproved new Canadian models which have been proven to be identical, in all material respects, to a U.S. certified configuration; (2) label each vehicle for fuel economy and emissions compliance purposes; (3) fulfill emission warranty and recall obligations to the extent not provided by the original equipment manufacturer, and notify owners of recalls and available warranty coverage; (4) maintain certain records, including import documentation and owner lists; (5) satisfy inspection requirements set forth in the new imports regulations; (6) pay any applicable Gas Guzzler taxes and Corporate Average Fuel Economy (CAFE) penalties; (7) submit proper final admission forms to EPA; and (8) hold vehicles for a period of three working days for EPA inspection before transfer to an ultimate purchaser or dealer.

Although many commercial importers of Canadian vehicles have participated in the interim program, EPA has received many comments from these importers about the difficulty in meeting some of the requirements. The comments received raise several issues associated with the importation of vehicles from Canada: (1) The actual differences in terms of emission compliance, if any, between vehicles built for sale in the U.S. and Canada; (2) whether EPA, the importer, or the manufacturer should be responsible for determining the differences between these vehicles; (3) whether original equipment manufacturers presently build, or plan to build, Canadian vehicles substantially unlike those produced for the U.S.; (4) whether EPA should treat imported Canadian vehicles any differently because of the currently equivalent emission standards in the U.S. and Canada; (5) whether vehicles built for sale in Canada meet 50-state emission requirements and whether EPA should be concerned with such vehicles being sold in California; (6) whether vehicles built for sale in Canada meet U.S. high-altitude requirements; (7) why importers of Canadian vehicles should not be responsible for providing warranties, paying Gas Guzzler taxes and CAFE penalties, and meeting recall obligations; and (8) whether these same concerns are associated with heavy-duty vehicles and engines.

EPA is considering several options for the proposed rulemaking. Most of the options under consideration are based upon the interim program, with the major difference being the precedures for determining which models are eligible for importation. One option under consideration would allow the importation of certain new vehicles from Canada only by a designated importer. Under this option, the designated importer would be permitted to import only those new vehicles which were previously proven to be identical, in all material respects, to their U.S. certified counterparts. The showing would be made by the designated importers and EPA approval would have to be obtained prior to importation.

The second option would also continue the basic provisions of the interim program and allow importations by only designated importers. However, EPA would rely upon the original equipment manufacturers to determine which models built for sale in Canada are different, in terms of emissions compliance, from their U.S. version counterparts.

The third option being considered would take into account the currently equivalent Canadian and U.S. emission standards. Although the emission

standards between the two counters are currently equivalent, certain emission-related compliance requirements (e.g., durability) are not the same. Since it is unlikely that original equipment manufacturers (OEMs) would produce two unique configurations for the North American market, EPA would assume that all vehicles built for sale in Canada also meet U.S. requirements. EPA would rely upon the OEMs to notify it of any unique configurations. Under this option, the need for a list of approved or unapproved models would be eliminated as long as the emission standards remain the same between the two countries. If, in the future, the standards between the two countries would become different, EPA would revert to the first option described.

The fourth option under consideration would allow the importation of only those vehicles which are labeled by the original equipment manufacturer as complying with U.S. emission requirements. Under this option, the need for a designated importer and EPA approval to import certain models would be eliminated, but the importation of Canadian vehicles might be significantly curtailed.

EPA encourages workshop participants to comment on these options and to suggest additional ones that should be considered. In addition, EPA is also interested in information regarding how it should treat the importation of new and used Canadian vehicles by individual owners. Often, an individual moving into the U.S. from Canada drives his/her vehicle to the border crossing with household goods. Usually, the individual is unaware of the vehicle importation restrictions which may apply to his/her vehicle. If the vehicle is not labeled by the manufacturer as complying with Federal emission requirements, then it may not be imported into the U.S. without EPA's prior written approval. This situation places the individual in a difficult situation because, in many cases, the individual does not have a home in Canada to return to and cannot proceed to his/her destination in the United States until EPA approval is obtained. For these reasons, EPA believes that the special circumstances associated with an individual moving to the U.S. from Canada also warrant consideration in this rulemaking.

EPA decided to hold the public workshop because several manufacturers and commercial importers of Canadian vehicles expressed an interest in a forum to further discuss these and other related issues. EPA encourages all potential participants to present and discuss factual information and data on these subject areas at the workshop. Written comments submitted after the workshop will also be accepted and should be provided to the EPA contact noted above by March 14, 1990.

Dated: January 10, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 90–1152 Filed 1–17–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 64]

RIN 2127–AD11

Federal Motor Vehicle Safety Standards

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This agency has expressed its intention to exclude safety belts that meet dynamic testing from some of the static testing requirements to which all safety belts are subject. Dynamic testing consists of a 30 mile per hour crash test of the vehicle using test dummies as surrogates for human occupants. Since the dynamic test measures the actual occupant protection which the belt provides during a crash, there is no apparent need to subject that belt to static testing procedures that are surrogate and less direct measures of the protection which the belt would provide to its occupant during a crash. As part of this exclusion for belts that meet dynamic testing, NHTSA has established labeling requirements for some, but not all, safety belts that are dynamically tested. The purpose of these labeling requirements is to minimize the likelihood that dynamically tested safety belts would inadvertently be installed in vehicles or at seating positions where the belt is not intended to be installed.

In order to fully effectuate those intentions, this notice proposes to amend the agency's regulations to more accurately express the scope of the exemption from the static testing requirements for safety belts that are dynamically tested. Specifically, this notice proposes to:

1. Exclude all safety belts that are subject to the dynamic testing requirements, regardless of the type of vehicle in which those belts are installed, from some of the static testing requirements for safety belts;

2. Permit the use of load limiters on all safety belts that are subject to the dynamic testing requirements, regardless of whether the subject belts are automatic or manual safety belts;

3. Correctly identify all of the static testing requirements from which manual safety belts subject to the dynamic testing requirements are excluded in the safety standards, instead of listing some of those requirements in the safety standards and adding others in the agency's interpretations and preambles to rules; and

4. Require all manual safety belts that meet the dynamic testing requirements, regardless of the type of vehicle in which such belts are installed, to be labeled with information about the specific seating positions and specific vehicle makes and models in which the belts can be used.

DATES: *Comment closing date:* Comments on this proposal must be received by NHTSA no later than March 5, 1990.

Proposed effective date: If adopted as a final rule, these amendments would take effect 180 days after publication of the final rule in the Federal Register. Manufacturers would be permitted to voluntarily comply with any or all parts of any final rule upon publication of such a rule.

ADDRESS: Comments should refer to the docket and notice number shown above for this proposal, and be submitted to: NHTSA Docket Section, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 8:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, NRM–12, Room 5320, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–2264).

SUPPLEMENTARY INFORMATION:

Background

Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), sets forth a series of static tests for strength and other qualities of the webbing and hardware used in a seat belt assembly, along with some additional tests of the seat belt assembly as a whole. These tests individually evaluate each of the aspects of a belt system that NHTSA believes are necessary to ensure that the belt system will provide adequate occupant protection in a crash. For instance, the strength requirements in Standard No. 209 are intended to ensure

that the safety belt is strong enough to withstand the loads imposed by a person using the belt in a crash, the webbing elongation requirements help ensure that the belt will not stretch so much that it provides a lesser level of protection, and so forth. NHTSA assumes that any belt system that achieves the required level of performance in all of these tests will offer adequate occupant protection when the belt system is installed in any vehicle at any seating position.

However, NHTSA has long believed it more appropriate to evaluate the occupant protection afforded by vehicles by conducting dynamic testing, which consists of a crash test of the vehicle using test dummies as surrogates for human occupants. This belief is based on the fact that the protection provided by safety belts depends on more than the performance of the safety belts themselves. Occupant protection depends on the performance of the safety belts themselves and the structural characteristics and interior design of the vehicle. A dynamic test of the vehicle allows NHTSA to evalute all of the factors that affect occupany crash protection. Further, a dynamic test allows the agency to evaluate the synergistic effects of all these factors working together, instead of evaluating each factor individually.

For dynamic testing under Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), test dummies are placed in the vehicle and the vehicle is subjected to a frontal crash into a concrete barrier at a speed of 30 miles per hour (mph). Aside from evaluating the occupant crash protection capabilities of a vehicle, this dynamic test permits a simultaneous evaluation of safety belt and assembly performance. A requirement for safety belts to conform to both the dynamic testing requirements of Standard No. 208 and the laboratory testing requirements of Standard No. 209 appears redundant, because the Standard No. 208 dynamic testing would have already evaluated the same aspects of belt and assembly performance that would be tested under Standard No. 209. To avoid such redundancies, automatic safety belts subject to the dynamic testing requirements of Standard No. 208 were excluded from Standard No. 209's laboratory testing requirements for webbing, attachment hardware, and assembly performance shorty after NHTSA established the first dynamic testing requirements in Standard No. 208. *See* 36 FR 23725; December 14, 1971.

More recently, NHTSA has extended the dynamic testing requirements of Standard No. 208 to manual safety belt systems installed at the front outboard seating positions in passenger cars (51 FR 9800; March 21, 1986) and light trucks and multipurpose passenger vehicles (52 FR 44898; November 23, 1987). In both instances, the agency stated in the preamble to the rule that dynamically tested manual belts should be excluded from the same requirements of Standard No. 209 as automatic belts are, for the same reasons. *See* 51 FR 9804; 52 FR 44906. On the other hand, both automatic and dynamically tested manual belts are subject to other requirements in Standard No. 209; for example, the retractor performance requirements, the buckle release mechanism performance requirements, and the requirements for corrosion resistance of attachment hardware apply to these types of safety belts. NHTSA subsequently denied some petitions for reconsideration and a petition for rulemaking on the question of excluding dynamically tested safety belts from some of the requirements of Standard No. 209. *See* 53 FR 5579; February 25, 1988. In the denial notice, NHTSA reemphasized its conclusion that there was no safety or other need to justify applying some of the static tests in Standard No. 209 to belt systems that have been dynamically tested in the vehicle in which there are installed.

In addition, the preambles to the rules establishing dynamic testing of some manual safety belt systems in passenger cars and light trucks and multipurpose passenger vehicles stated that dynamically tested manual safety belts should be labeled indicating the seating positions and particular vehicles in which these safety belts could be instaled. *See* 51 FR 9804; 52 FR 44906–44907. These labels was intended to minimize the likelihood that a dynamically tested safety belt would be installed in a vehicle or a seating position for which it was not intended. NHTSA subsequently denied a petition for rulemaking asking that these labeling requirements be amended to apply only to dynamically tested manual belt systems that did not comply with all the static testing requirements of Standard No. 209. 53 FR 50429; December 15, 1988.

However, the regulatory language in Standards No. 208 and 209 does not fully and clearly achieve the agency's expressed intent. Therefore, the agency is proposing the following amendments to those standards.

1. *Exclusion for Dynamically Tested Manual Belt Systems Installed in Passenger Cars from Certain Requirements of Standard No. 209.* Volkswagen of America (Volkswagen) has submitted a petition for rulemaking asking NHTSA to amend the language in Standard No. 208 so as to achieve the agency's stated intent of excluding dynamically tested manual belt assemblies installed at front outboard seating positions of passengers cars from the webbing width, strength, and elongation requirements of Standard No. 209. Volkswagen noted that, although preambles to rules on dynamic testing have repeatedly indicated that NHTSA was excluding dynamically tested manual belts in passenger cars from certain static testing requirements of Standard No. 209, the current language in section S4.6.1. of Standard No. 208 excludes dynamically tested manual belts in passenger cars from some requirements in Standard No. 209 only if the requirement for automatic restraints in passenger cars were rescinded. Since there was no rescission, there is currently no exclusion from any of the requirements in Standard No. 209 for dynamically tested manual belts in passenger cars.

As explained earlier in this notice and in several preceding notices addressing dynamic testing of manual belts. NHTSA believes it is appropriate to exclude all belt systems subject to dynamic testing requirements from some of the static testing requirements of Standard No. 209, regardless of the vehicle type in which those dynamically tested safety belt systems are installed. The current language of Standard No. 208 provides such an exclusion for dynamically tested manual safety belts installed in passenger cars only if the automatic restraint requirement for passenger cars had been rescinded. This language represents an oversight on the agency's part, not some judgment that there are policy considerations that make it appropriate to exclude dynamically tested manual belts systems in passenger cars from some of the static testing requirements only if the automatic restraint requirement were rescinded. This notice proposes to correct that oversight.

2. *Load Limiters on Dynamically Tested Manual Belts.* Section S4.5 of Standard No. 209 includes specific regulatory provisions regarding "load limiters" on safety belt systems. A "load limiter" is defined in section S3 of Standard No. 209 as "a seat belt assembly component or feature that controls tension on the seat belt to modulate the force that are imparted to occupants restrained by the belt assembly during a crash." Section S4.5(a) excludes belt assemblies that include load limiters from the elongation requirements in Standard No. 209,

section S4.5(b) provides that a belt assembly that includes a load limiter and does not comply with the elongation requirements of Standard No. 209 may be installed in vehicles only in conjunction with an automatic restraint system, and section S4.5(c) sets forth specific labeling requirements for belt assemblies that include a load limiter and do not comply with the elongation requirements. The preamble to the final rule that established S4.5 explained the agency's rationale as follows:

> [T]here are currently no dynamic performance requirements or injury criteria for manual belt systems used alone. There are no requirements to ensure that a load-limiting belt system would protect vehicle occupants from impacting the steering wheel, instrument panel, and windshield, which would be very likely if the belts elongated beyond the limits specified in Standard No. 209. Therefore, the elongation requirements are necessary to ensure that manual belts used s the sole restraint system will adequately restrain vehicle occupants. 46 FR 2618, at 2619; January 12, 1981.

Ford Motor Company (Ford) asked NHTSA whether it could use load limiters on a dynamically tested manual belt. In its request, Ford noted that NHTSA had repeatedly stated that section S4.6 of Standard No. 209 excludes dynamically tested manual belts from the elongation requirements of Standard No. 209, presumably because the dynamic testing would ensure that the belt system provided adequate crash protection for occupants using it with whatever elongation the belt assembly allowed in the dynamic test. Ford suggested that the explanation of the reasons why NHTSA believed the elongation requirements were unnecessary for dynamically tested manual belts would apply equally well to dynamically tested manual belts with load limiters. Conversely, the agency's stated reasons for not permitting load limiters to be installed on manual safety belts was because there were no dynamic testing requirements for those safety belts. Since some manual belts were now subject to dynamic testing, the agency's concerns seemed to have been addressed insofar as those belts are concerned. Additionally, Ford suggested that NHTSA intended the labeling requirements for dynamically tested manual belts (set forth in S4.6(b) of Standard No. 209) to apply to any such belts that included load limiters, instead of the labeling requirements for belt assemblies that included load limiters (set forth in S4.5(c) of Standard No. 209).

In a March 28, 1989 reply to Ford, NHTSA stated that while section S4.6 of Standard No. 209 does exclude dynamically tested manual belts from the elongation requirements, it does not speak directly to the consequence of installing a load limiter on a belt that does not comply with the elongation requirements. That issue is directly addressed in section S4.5, which provides that such a belt assembly "may be installed in a motor vehicle only in conjunction with an automatic restraint system." It is not possible to interpret the term "automatic restraint system" to mean "automatic restraint system or dynamically tested manual restraint system." Therefore, regardless of what the agency intended to do or should have done, the language of section S4.5 of Standard No. 209 allows load limiters to be used on belt assemblies only if that belt assembly is part of an automatic restraint system. In other words, dynamically tested manual belts cannot include load limiters under the existing language of Standard No. 209.

In spite of this interpretation, NHTSA agrees with Ford's suggestions that the agency intended to permit the use of load limiters on dynamically tested manual belt systems. As long as a belt system is installed at a seating position that is subject to dynamic testing requirements, the occupant protection capabilities of the belt system can be evaluated in the dynamic testing. There is no reason to permit the use of load limiters on dynamically tested automatic belt systems, but prohibit their use on dynamically tested manual belt systems. Accordingly, this notice proposes to amend section S4.5(b) to provide that load limiters can be used on belt systems installed in conjunction with an automatic restraint system or on belt systems installed at a seating position subject to the dynamic testing requirements. Further, this notice would amend the labeling requirement for belt systems with load limiters in S4.5(c) of Standard No. 209 to make it identical with the labeling requirement for dynamically tested belt systems in S4.6 of Standard No. 209.

3. *Scope of Exclusion from Standard No. 209 for Dynamically Tested Manual Belt Systems.* Currently both Standards No. 208 and 209 exclude dynamically tested manual belt systems from "the requirements of S4.2(a)–(c) and S4.4" of Standard No. 209. S4.2(a) of Standard No. 209 is a webbing width requirement, S4.2(b) is a webbing breaking strength requirement, S4.2(c) is a webbing elongation requirement, and S4.4 sets forth requirements for belt assembly performance.

Although this exclusion appears to be a comprehensive listing of the provisions of Standard No. 209 from which dynamically tested safety belts are excluded, it is in fact incomplete. Several previous interpretations have expressed NHTSA's position that an exclusion from the webbing strength requirements also excludes a safety belt from other provisions of S4.2. In the notice denying the petitions asking that all requirements of Standard No. 209 apply to all belts, even those that have been dynamically tested, NHTSA articulated its position as follows: "The agency recognizes and confirms that Standard No. 209's requirements for resistance to abrasion [S4.2(d)], light [S4.2(e)], and micro-organisms [S4.2(f)] do not apply to dynamically tested belts exempted from the strength requirements of S4.2(b)." 53 FR 5579, at 5580; February 25, 1988. This is because the compliance tests for S4.2(d)–(f) of Standard No. 209 depend upon the safety belt's performance in the breaking strength test, a test from which dynamically tested manual belt systems are excluded.

NHTSA believes that the regulations themselves should make clear that dynamically tested manual belts are excluded from the requirements of S4.2(a)–(f), instead of stating that dynamically tested manual belts are excluded from S4.2(a)–(c) and relying on interpretations and discussions in preambles to also exclude those belts from S4.2(d)–(f). To ensure that all parties are aware of the actual scope of the exclusion from Standard No. 209 for dynamically tested manual belts, this notice proposes to amend Standards No. 208 and 209 to reflect the agency's longstanding position that dynamically tested safety belts are excluded from S4.2(a)–(f) of Standard No. 209.

4. *Labeling Requirements for Dynamically Tested Manual Safety Belts Installed in Passenger Cars.* The Automobile Importers Association (AIA) has asked whether it was NHTSA's intention to require the labeling specified in S4.6(b) of Standard No. 209 to appear on all dynamically tested manual seat belt assemblies for use in passenger cars. It was NHTSA's intention to require the specified information to appear on all dynamically tested manual seat belt assemblies regardless of the vehicle type in which the safety belt will be installed.

In adopting the requirement for dynamically tested passenger car manual belt assemblies, NHTSA explained the need for the labeling requirement as follows:

> NHTSA believes that care must be taken to distinguish dynamically tested belt systems from other systems, since misapplication of a belt in a vehicle designed for use with a

specific dynamically tested belt could pose a risk of injury. If there is a label on the belt itself, a person making the installation will be aware that the belt should be installed only in certain vehicles. 51 FR 9800, at 9804; March 21, 1986.

When NHTSA extended dynamic testing requirements to safety belts installed in light trucks and multipurpose passenger vehicles, the agency explained that it was "adopting the same belt labeling requirements for light trucks and multipurpose passenger vehicles that it has previously applied to passenger car safety belts." 52 FR 44898, at 44907; November 23, 1987. NHTSA then denied a petition for rulemaking asking the agency to limit the belt labeling requirements to those dynamically tested manual belts that do not comply with all requirements of Standard No. 209. The agency explained that dynamically tested manual belt systems that comply with all requirements of Standard No. 209 might not be appropriate for use in all other vehicles, particularly those vehicles designed to use only some specific dynamically tested manual belt systems. The labeling requirements help minimize the chances that some belt system the vehicle was not designed to use will be inappropriately installed in the vehicle. 53 FR 50429; December 15, 1988.

The agency believes that these reasons have the same validity with respect to dynamically tested manual belt systems to be used in passenger cars as they do for dynamically tested manual belt systems to be used in light trucks and multipurpose passenger vehicles. However, the current language of section S4.6 of Standard No. 209 requires dynamically tested manual belts to be labeled if the belt system meets the requirements of S4.6 of Standard No. 208. As noted above, S4.6 of Standard No. 208 applies to dynamically tested manual belts installed in passenger cars only if the automatic restraint requirements had been rescinded. Hence, section S4.6 of Standard No. 209 currently does not require any labeling of dynamically tested manual belt systems installed in passenger cars. This notice proposes to revise Standard No. 209 so that it requires labeling of all dynamically tested manual belt systems, regardless of the vehicle type in which the belt system will be installed.

Economic and Other Impacts

NHTSA has considered the impacts of this proposed rulemaking action and determined that these proposals are neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation's regulatory policies and procedures. The amendments proposed in this notice would give manufacturers additional freedom to design and install manual belts in any way that ensures adequate protection for the user in the event of a crash.

Some minor cost savings could be associated with any final rule implementing the proposals identified as numbers 1–3 in this notice. Each of these proposals would amend the existing language in Standards No. 208 and 209 to more accurately reflect the agency's intention to treat dynamically tested manual belts in the same manner as dynamically tested automatic belts are treated with respect to the static testing requirements in Standard No. 209. To the extent that the existing language does not accurately reflect the agency's intent, it imposes some insignificant, but unnecessary, costs on vehicle manufacturers.

Some minor cost increases might be associated with a final rule adopting the fourth proposal to require informational labeling on dynamically tested manual belts for passenger cars, if manufacturers do not already label those belts in accordance with the agency intent expressed in the aforementioned discussions in the preambles. However, the costs of such labeling will be minor, since the manufacturer is required only to disclose information it already knows (the vehicles and seating positions for which the dynamically tested manual belt is appropriate), not to conduct additional testing or otherwise gather additional information. NHTSA believes the costs of such labeling for dynamically tested manual belts in passenger cars would be comparable to and as minor as the costs of labeling dynamically tested manual belts installed in light trucks. Because the costs associated with this proposal are so minimal, the agency has determined that a full preliminary regulatory evaluation is not necessary for this proposal.

NHTSA has also considered the impacts of this proposed action under the Regulatory Flexibility Act. I hereby certify that any final rule implementing these proposals would not have a significant economic impact on a substantial number of small businesses. Few, if any, of the vehicle manufacturers qualify as small businesses. To the extent that any affected parties would qualify as small businesses, the economic impacts associated with these proposals would be minimal, as explained above. Small organizations and small governmental units would not be significantly affected by these proposals as purchasers of new cars, because any final rule implementing these proposals would not affect the price of new cars.

NHTSA has also analyzed this proposed action for the purposes of the National Environmental Policy Act, and determined that, if this action were adopted as a final rule, it would not have a significant impact on the quality of the human environment.

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

The Office of Management and Budget (OMB) has already approved NHTSA's requirements for labeling dynamically tested manual belts for use in light trucks and light multipurpose passenger vehicles and for labeling dynamically tested manual belts for use in passenger cars if the requirement for automatic restraints were rescinded (OMB # 2127–0512). This proposal would expand the requirements for labeling dynamically tested manual belts for use in passenger cars to coincide with the requirements for labeling dynamically tested manual belts for use in light trucks and multipurpose passenger vehicles. This expansion is considered to be an information collection requirement, as that term is defined by OMB in 5 CFR Part 1320. Accordingly, this proposed requirement will be submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on this proposed information collection requirement should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is required that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. S4.6 of Standard No. 208 would be amended by removing existing sections S4.6.1 and S4.6.3, redesignating existing S4.6.2 as S4.6.1, and adding a new S4.6.2 to read as follows:

S4.6.2 Any manual seat belt assembly subject to the requirements of S5.1 of this standard does not have to meet the requirements of S4.2(a)-(f) and S4.4 of Standard No. 209 (§ 571.209).

§ 571.209 [Amended]

3. S4.5 of Standard No. 209 would be amended by revising S4.5(b) and (c) to read as follows:

S4.5 *Load-limiter.*

* * * * *

(b) A Type 1 or Type 2 seat belt assembly that includes a load limiter and that does not comply with the elongation requirements of this standard may be installed in motor vehicles at any designated seating position that is subject to the requirements of S5.1 of Standard No. 208 (§ 571.208).

(c) In addition to the marking requirements specified in S4.1(k) of this standard, a Type 1 or Type 2 seat belt assembly that includes a load limiter and that does not comply with the elongation requirements of this standard shall be permanently and legibly marked or labeled with the following statement:

This dynamically-tested seat belt assembly is for use only in [insert specific seating position(s), e.g., "front right"] in [insert specific vehicles make(s) and model(s).

4. S4.6 of Standard No. 209 would be revised to read as follows:

S4.6 *Manual belts subject to crash protection requirements of Standard No. 208.*

(a) A seat belt assembly subject to the requirements of S5.1 of Standard No. 208 (§ 571.208) does not have to meet the requirements of S4.2(a)-(f) and S4.4 of this standard.

(b) A seat belt assembly that meets the requirements of S5.1 of Standard No. 208 (§ 571.208) shall be permanently and legibly marked or labeled with the statement specified in S4.5(c) of this standard.

Issued on January 12, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-1115 Filed 1-17-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

Incidental Take of Marine Mammals in Beaufort and Chukchi Seas

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

ACTION: Extension of comment period on proposed rule.

SUMMARY: The National Marine Fisheries Service is extending the comment period on a proposed rule (54 FR 40703) that would allow the harassment of marine mammals during exploration for oil and gas in the Chukchi and Beaufort Seas for the next 5 years.

DATES: The comment period on the proposed rule has been extended from January 16, 1990 to January 31, 1990. A public hearing will be held in the Washington, DC, area on January 16, 1990.

ADDRESSES: Written comments on the proposed rule may be mailed to Dr. Nancy Foster, Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. A copy of the proposed rule may be obtained by writing to this address or from the information contact listed below. The location for the Washington, DC, area hearing is the Lobby Conference Room at the above address.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz in Washington, DC, at (301) 427-2322. Notify Ms. Lorenz if you wish to testify, and please submit a written copy of your testimony at the hearing.

Dated: January 10, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 90-1106 Filed 1-17-90; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

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

Advisory Council on Historic Preservation

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Monday, February 5, 1990. The meeting will be held in Room M09 at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC, beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, and Transportation; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome/Opening
II. Council Business
III. Executive Director's Report
IV. Section 106 Cases
V. New Business
VI. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC, 202–786–0503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: January 10, 1990.

Robert D. Bush,

Executive Director.

[FR Doc. 90–1146 Filed 1–17–90; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[CS–90–001]

Notice of Program Continuation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice inviting applications for fiscal year 1990 grant funds under the Federal-State Marketing Improvement Program (FSMIP).

SUMMARY: Notice is hereby given that the Federal-State Marketing Improvement Program was allocated $1,236,000 in the Federal Budget for Fiscal Year 1990. Funds remain available for this program. States interested in obtaining funds under the program are invited to submit proposals for marketing studies.

DATE: Applications will be accepted until September 1990.

ADDRESS: Proposals may be sent to Dr. Harold S. Ricker, Deputy Director for Marketing Research, Commodities Scientific Support Division, AMS, USDA, Room 3522—South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Dr. Harold S. Ricker, (202) 447–2704.

SUPPLEMENTARY INFORMATION: The Federal-State Marketing Improvement Program is authorized under section 204(b) of the Agricultural Marketing Act of 1946. The program is a matching fund program designed to assist State Departments of Agriculture in conducting feasibility studies related to the marketing of agricultural products. Organizations interested in conducting a marketing study should contact their State Department of Agriculture Marketing Division to discuss their proposal. Mutually acceptable proposals must be submitted through the State Office and be accompanied by a completed SF 424 and detailed budget statement. FSMIP funds may not be used for advertising or the purchase of equipment and facilities. Guidelines may be obtained from your State Departments of Agriculture or the above AMS contact.

In terms of objectives, the States are encouraged to submit proposals regarding: (1) Studies to identify new crops, markets, and marketing systems for agricultural products; (2) studies to improve efficiency of the marketing system to enhance competitiveness and profitability; and (3) studies to help maintain product quality through new handling, processing, and distribution techniques. Proposals addressing other marketing objectives will also receive consideration.

The Federal-State Marketing Improvement Program is listed in the "Catalog of Federal Domestic Assistance" under No. 10.156 and subject agencies must adhere to title VI of the Civil Rights Act of 1964 which bars discrimination in all federally-assisted programs.

Done at Washington, DC this day of January 12, 1990.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 90–1165 Filed 1–17–90; 8:45 am]

BILLING CODE 3410–02–M

Economic Research Service

National Agricultural Cost of Production Standards Review Board; Meeting

The National Agricultural Cost of Production Standards Review Board will meet at the Economic Research Service, U.S. Department of Agriculture, Washington, DC on February 12–13, 1990.

The purpose of this meeting is to discuss general issues related to USDA's estimation of enterprise costs of production. All meetings will be held in room 332, 1301 New York Avenue, NW. The morning sessions on February 12–13 will convene at 9 a.m. and the afternoon sessions will convene at 1:30 p.m. Meetings will end at approximately 4 p.m. both days.

All sessions will be open to members of the public who wish to observe. Written comments may be submitted before or after the meeting to Kenneth Deavers, Director, ARED-ERS-USDA, Room 314, 1301 New York Avenue, NW., Washington, DC 20005.

For further information, contact Robert Dismukes at (202) 786–1801.

John E. Lee, Jr.,

Administrator.

[FR Doc. 90–1079 Filed 1–17–90; 8:45 am]

BILLING CODE 3410–18–M

Forest Service

Threemile Area Timber Sales and Other Projects, Colville National Forest, Pend Oreille County, Washington; Intent to Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of a site specific proposal to harvest and regenerate timber, construct and reconstruct roads and improve habitat for wildlife. The proposed projects will be in compliance with the Forest Land and Resource Management Plan which provides the overall guidance for management of the area including a schedule of proposed activities for the next ten years. The proposed projects will be implemented within portions of Threemile, Slate and Sullivan Creek drainages on the Sullivan Lake Ranger District in fiscal years 1991 through 1999. The Colville National Forest invites written comments and suggestions on the scope of the analysis. The agency will give notice of the full environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the management of this project area should be received by February 28, 1990.

ADDRESS: Submit written comments and suggestions concerning the management of this area to Edward L. Schultz, Forest Supervisor, 695 South Main, Colville, Washington 99114, or Andrew C. Mason, District Ranger, HCR 2, Metaline Falls, Washington 99153.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed project work and EIS should be directed to Gary Harris, Resource Assistant, HCR 2, Metaline Falls, Washington 99153 (telephone: (509) 446–2681).

SUPPLEMENTARY INFORMATION: The site specific proposal includes harvesting timber and constructing roads on two timber sales. The gross timber sale area being analyzed for these two projects is approximately 5,890 acres. Analysis will address a range of alternatives to the proposed harvest of 6.8 MMBF of timber from 460 acres of land and construction 6.5 miles of new roads in the Threemile timber sale area and the harvest of 6.7 MMBF of timber from 475 acres of land and construction of 9.0 miles of new roads in the Bluebird timber sale. The proposal and other projects associated with the proposal, including, wildlife habitat improvements, site preparation, tree planting, thinning, etc., will be evaluated in a Draft EIS. A No Action Alternative will be included. The proposed action would extend over a period of about 5–8 years.

The proposal addressed through the Draft EIS will tier to the Final EIS for the Colville National Forest Land and Resource Management Plan (December 1988). The Forest Land and Resource Management Plan provides the overall guidance (Goals, Objectives, Standards and Guidelines, and Management Area direction) in achieving the desired future condition for this area.

Approximately 40 percent of the potentially affected area is in Scenic/Timber Production (Management Area 5) and 40 percent of the area is in Scenic/Big Game Winter Range (Management Area 6). The remainder of the area is split between Timber Production (Management Area 7), Big Game Winter Range (Management Area 8), and the Halliday Fen Research Natural Area (Management Area 4).

Because of the controversial nature of timber harvest and road building activities in this area, other Federal, State, and local agencies, potential purchasers and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. Scoping will include:

1. Determination of potential cooperating agencies and assignment of responsibilities.
2. Identification of the issues to be addressed.
3. Identification of issues to be analyzed in depth.
4. Elimination of insignificant issues, issues covered by previous environmental review, and issues not within the scope of this decision.

Scoping and analysis for this project will begin in January, 1989 and is expected to take about seven months. Notification of scoping will include public notices and individual communications. The Colville National Forest Supervisor invites written comments and suggestions on the management of the proposal area and the scope of this analysis.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September, 1990. At that time the EPA will publish a notice of availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. The Final EIS is scheduled to be completed by January 1991.

The Forest Service is the Lead Agency. The Fish and Wildlife Service, Department of Interior, will participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat occurring as a result of this action.

Edward L. Schultz, Forest Supervisor, Colville National Forest is the responsible official.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft EIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and

discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

Dated: January 9, 1990.

Edward L. Schultz,

Forest Supervisor.

[FR Doc. 90-1130 Filed 1-17-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-609]

Preliminary Results of Antidumping Duty Administrative Review: Color Picture Tubes From Japan

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

ACTION: Notice.

SUMMARY: In response to a request by Toshiba Corporation, the Department of Commerce is conducting an administrative review of the antidumping duty order on color picture tubes from Japan. The review covers Toshiba Corporation, a manufacturer and/or exporter of this merchandise to the United States, and the period June 30, 1987 through December 31, 1988. We preliminarily determine the dumping margin to be 0.00%. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Shawn Thompson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-8830 or (202) 377-1776, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1988, the Department published in the **Federal Register** (53 FR 430) an antidumping duty order on color picture tubes from Japan. One respondent, Toshiba Corporation, requested in accordance with § 353.53(a) of the Commerce Regulations (19 CFR 353.53a(a) (1988)) that we conduct an administrative review. We published a notice of initiation on March 8, 1989 (54 FR 9868). The Department is now conducting 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 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.

Imports covered by this review are shipments of color picture tubes (CPTs) which are provided for in *Tariff Schedules of the United States Annotated* (TSUSA) items 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520. The corresponding Harmonized System numbers are 8540.11.00.10, 8540.11.00.20, 8540.11.00.30, 8540.11.00.40, 8540.11.00.50, 8540.11.00.60 and 8540.11.00.80. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

CPTs are defined as cathode ray tubes suitable for use in the manufacture of color television receivers (CTVs) or other color entertainment display devices intended for television viewing.

CPTs which are imported as incomplete television assemblies that contain a CPT as well as additional components are also included in the scope of this review unless both of the following criteria are met: (1) The CPT is "physically integrated" with other television receiver components in such a manner as to constitute one inseparable amalgam; and (2) the CPT does not constitute a significant portion of the cost or value of the items being imported. CPTs which are imported together with other parts as incomplete television assemblies whether shipped directly from Japan or through Mexico are included in the scope of this review. Incomplete television receiver assemblies are provided for in TSUSA items 684.9656, 684.9658 and 684.9660. The corresponding HTS item number is 8528.10.80.45. Incomplete assemblies may also be included in HTS item number 8528.10.80.50.

Excluded from the scope of this review are CPTs which are shipped directly from Japan and imported together with other parts as television receiver kits (which contain all parts necessary for assembly into complete television receivers). However, CPTs which are shipped through Mexico and imported together with other parts as television receiver kits are included in the scope of this review.

The review covers one manufacturer and/or exporter, Toshiba Corporation, to the United States of color picture tubes and the period June 30, 1987 through December 31, 1988.

United States Price

We based United States price on exporter's sales price, in accordance with section 772(c) of the Tariff Act, because all sales to the first unrelated purchaser took place after importation into the United States.

For all exporter's sales price sales, the CPTs were imported into the United States and incorporated into CTVs before being sold to the first unrelated party. Therefore, it was necessary to construct a selling price for the CPT from the sale of the CTV. To calculate exporter's sales price we used the packed, f.o.b. price of CTVs to unrelated purchasers in the United States. We made deductions from this price for discounts and special promotional allowances, foreign inland freight, foreign inland insurance, U.S. and foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, U.S. inland freight, and U.S. marine and inland insurance.

We also made deductions in accordance with § 353.41(e)(2) 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, 19 CFR part 353) for direct and indirect selling expenses incurred by or for the account of the exporter in selling CTVs in the United States. Direct selling expenses were deducted for U.S. credit, advertising, flooring expenses (expenses incurred by Toshiba to have a finance company collect its receivables), royalties and warranties. Warranties were calculated on a model-specific basis as opposed to an average rate for all models as originally reported. We considered royalties to be a direct selling expense as opposed to part of the indirect expenses related to the Cathode Ray Tube Division of Toshiba in Japan because they could be tied directly to sales of CPTs. Indirect selling expenses were deducted for those indirect expenses incurred outside the United States, those indirect expenses of the related reseller in the United States and inventory carrying costs. Pursuant to § 353.41(e)(1) of our regulations, we also deducted commissions paid to unrelated parties.

Since it is the CTV and not the CPT that is ultimately sold in the United

States, a proportional amount of the CTV indirect selling expenses was allocated to the CPT based on the costs associated solely with the CPT to the total CTV cost. The total of the indirect selling expenses allocated to the CPT formed the cap for the allowable home market selling expenses offset under § 353.56(b).

We made deductions in accordance with § 353.41(e)(3) for all value added to the CPT in the United States. This value added consisted of the costs associated with the transformation of the CPT into a CTV, all movement expenses incurred in the United States, and a proportional amount of the profit or loss related to these costs. Profit or loss was calculated by deducting from the net sales price of the CTV all production and selling costs incurred by the company with respect to the CTVs. The total profit or loss was then allocated proportionately to all components of cost. The profit or loss attributable only to (1) production and movement costs to the United States, and (2) the portion of selling expenses attributable to further manufacture, was considered to be part of the value added in the U.S. production.

In the less than fair value investigation, we attributed the profit or loss associated with value added in the United States only to the production and movement cost of the CTV, excluding any portion of profit or loss associated with selling expenses attributed to the CTV. While this is one permissible interpretation of section 772(e)(3) of the Tariff Act, it is not the only one. Moreover, it subsequently became apparent that this methodology was inconsistent with the value-added methodology used in administrative reviews.

In order to harmonize our practice, we reconsidered the relevant policy and legal issues. As a matter of policy, we think it is desirable to allocate more equitably any profit or loss associated with further manufacturing after importation. In addition, the legislative history suggests that all value added after importation should be accounted for in any adjustment to exporter's sales price. S. Rep. No. 93–1298, 93rd Cong., 2d Sess. 173 (1974). Accordingly, we have concluded that the preferable methodology is to include in our calculation of value added after importation a proportional amount of the profit or loss associated with selling expenses attributable to CTVs.

In determining the costs incurred to produce the CTV, the Department relied on the cost data provided by the respondent. These costs included (1) the costs of production for the chassis and the CPT (which was the submitted actual cost as compared to the transfer price used by the respondent) (2) movement and inventory carrying costs for these components and (3) the cost of other materials (i.e., the cabinet and other parts), fabrication, general expenses, and interest expenses attributable to the production of the CTV in the United States. The quarterly costs for the CPT and the chassis and other materials were converted at the average exchange rate during that quarter. These aggregated quarterly costs were then matched to the sales prices of the CTV during that quarter to determine the profit or loss.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on the packed, ex-factory price to unrelated purchasers in the home market. Where applicable, we deducted inland freight, discounts and rebates. We also deducted the home market packing cost from the foreign market value and added U.S. packing cost.

Because U.S. price was based on exporter's sales price, we made further deductions from the home market price, where appropriate, for credit expenses and royalties. Credit costs were recalculated using the period from date of sale to date of payment. We deducted indirect selling expenses incurred on home market sales up to the amount of commissions and indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.56(b) of our regulations.

Where appropriate, we made further adjustments to the home market price to account for physical differences in the merchandise, in accordance with section 773(a)(4)(C) of the Tariff Act.

Currency Conversion

We used the official exchange rates in effect on the dates of U.S. sales, in accordance with section 773(a)(1) of the Tariff Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of our comparison of United States price with foreign market value, we preliminarily determine the margin to be:

Manufacturer/exporter	Time period	Margin (percent)
Toshiba Corp.	6/30/87–12/31/88	0.00

The Department will issue appraisement instructions concerning Toshiba Corporation directly to the Customs Service upon completion of this administrative review.

Furthermore, the following deposit requirements will be effective upon publication of our final results of this administrative review for all shipments of Japanese color picture tubes entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by the remaining known manufacturers/exporters not covered in this review will continue to be at the rate published in the final determination of sales at less than fair value, as amended, for these firms (53 FR 430, January 7, 1988); (2) the cash deposit rate for Toshiba Corporation will be that established in the final results of this administrative review; and (3) the cash deposit rate for any future entries of this merchandise from a new producer and/or exporter, not covered in this administrative review or in the original investigation, whose first shipments occurred after December 31, 1988 and who is unrelated to the reviewed firm or any firm which was subject to the original investigation will be the same as the rate established for Toshiba Corporation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

In accordance with § 353.38 of the Department's regulations, case briefs or any other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 7, 1990, and rebuttal briefs no later than February 14, 1990. In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Such hearing will be held at 9:30 a.m. on February 16, 1990, at the U.S. Department of Commerce, Room 1411, 14th Street and Constitution Avenue NW, Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to

the Assistant Secretary for Import Administration, Room B–099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with § 353.38(b) of the Department's regulations, an interested party may make an affirmative oral presentation only on arguments included in its briefs.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22(c)(5) 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: January 10, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–1161 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–019]

Cyanuric Acid and its Chlorinated Derivatives From Japan

Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 21, 1988, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty orders on cyanuric acid and its chlorinated derivatives from Japan. The review covers two manufacturers/exporters of this merchandise to the United States, Nissan Chemical Industries and Shikoku Chemicals Corporation, two trading companies, Toyo Menka Kaisha Ltd. and Mitsubishi Corporation, and two consecutive review periods from April 1, 1985 through March 31, 1986 and April 1, 1986 through March 31, 1987.

We gave interested parties an opportunity to comment on the preliminary results. At the request of Monsanto Company, a domestic interested party, we held a hearing on January 23, 1989. Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the final results from those presented in the preliminary results of review.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 21, 1988, the Department of Commerce ("the Department") published in the Federal Register (53 FR 46896) the preliminary results of its administrative reviews and tentative determination to revoke in part on the antidumping orders on cyanuric acid and its chlorinated derivatives from Japan (49 FR 18148, April 27, 1984). The Department has now completed the administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of the Review

Imports covered by this review are shipments of cyanuric acid (also known as isocyanuric acid) and its chlorinated derivatives (dichloro isocyanurates, and trichloro isocyanuric acid) used in the swimming pool trade. We have categorized the merchandise as cyanuric acid, dichloro isocyanurates ("DCA") and trichloro isocyanuric acid ("TCA"), which we consider to be separate classes or kinds of merchandise. These products are sold in three basic consistencies: powder, granular and tablet. During the review period, such merchandise was classifiable under item 425.1050 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item 2933.69.50.50. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers Shikoku, Nissan, Mitsubishi Corporation and Toyo Menka Kaisha, Ltd., and two consecutive review periods from April 1, 1985 through March 31, 1986 and April 1, 1986 through March 31, 1987.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of Monsanto Company, a domestic interested party, we held a public hearing on January 23, 1989. We received comments from Monsanto Company and rebuttal comments from respondents, Shikoku and Nissan.

Comment 1: Monsanto contends that Nissan and Shikoku may be disguising dumping through the creation of fictitious markets. Specifically, Monsanto alleges that respondents have lowered the prices for granular forms of cyanuric acid and its chlorinated derivatives in the home market below the U.S. price for the granular forms of the same products, while raising home market prices for powder and tablet forms of cyanuric acid and its chlorinated derivatives. They argue that, in accordance with section 773(a)(5) of the Tariff Act, this can be taken as evidence of the creation of a fictitious market. Therefore, the Department should disregard home market sales of cyanuric acid and its chlorinated derivatives in granular form.

Respondents argue that the Department is not required to look at different forms of merchandise in the home market to calculate foreign market value. Section 771(16) requires that foreign market value be based first on prices of identical merchandise (granular products) before prices for similar forms of merchandise are considered (e.g., tablets and powder products). Respondents claim that there were sufficient home market granular sales to form a basis for computing foreign market value.

Respondents further claim that section 773(a)(5) of the Tariff Act does not require the Department to investigate price movements for different forms of merchandise in the home market, but merely permits the Department to do so if price movements for identical forms of the merchandise appear to reduce the dumping margins. Moreover, a finding of different price movements for different products does not establish that a fictitious market has been created. Nissan argues that Monsanto must also provide evidence that home market sales of identical merchandise are "pretended sales" or not *bona fide*" sales, as defined in section 773(a)(1) of the Tariff Act. Monsanto has not come forward with any evidence that granular sales in the home market represent pretended sales or sales that are not *bona fide.*

Shikoku argues that Monsanto must provide evidence that industry-wide restrictions have been imposed on the sale of lower-priced identical merchandise in the home market before such sales can be disregarded. Monsanto has only alleged that specific producers have made sales outside the ordinary course of trade, which is not sufficient for a fictitious market allegation and circumvents the legislative intent behind the fictitious market provision. Monsanto must provide evidence that the producers and all competing producers impose

restrictions which prevent consumers from purchasing lower-priced goods.

Department's Position: Section 771(16) of the Tariff Act requires the Department to compare U.S. price with the foreign market value of identical merchandise in the home market. However, section 773(a)(5) the Tariff Act provides that the "occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold * * * may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise." Therefore, in order to determine whether a fictitious market exists, the Department is not limited to identical forms of the merchandise.

Monsanto provided sufficient evidence of different price movements for different forms of TCA and DCA for us to investigate whether there was a fictitious market for granular forms which appeared to reduce the dumping margins. Therefore, at verification, we investigated Nissan's prices for home market sales for other forms of the merchandise under review during the period. We found that, although home market prices for non-granular sales were higher than prices for granular sales, the volume for non-granular sales was low. Even by weight-averaging home market prices for granular and non-granular sales, the foreign market value would still not exceed U.S. price. Therefore, we determined that no evidence of a fictitious market existed for Nissan's granular sales in the home market. We examined Shikoku's home market prices for non-granular merchandise following the publication of the preliminary results of review. We found that there also was no evidence of a fictitious market. (See our position to Comment 2.)

With respect to respondents' claims that different price movements for different forms of the products were not sufficient to establish the existence of a fictitious market, see our position to comment 2.

Comment 2: Monsanto questions the Department's decision not to investigate further the possibility of fictitious markets for Nissan because the Department found that the quantity of tablet and powder sold at higher prices was too small to offset lower home market prices for granular sales. In addition, Monsanto alleges that the Department failed to investigate Shikoku's home market tablet and powder prices, which Mansanto claims are sold at significantly higher prices than the prices for granular products.

Nissan claims that, even if the Department investigates the fictitious market allegation further, the Department would find that Nissan's weighted-average prices for different forms of chemically identical merchandise under review in the home market were comparable to the weighted-average prices for granular merchandise in the home market.

Shikoku argues that the Department did analyze its home market sales of the merchandise in powdered form and that the average price for the powdered form was less than the price for the granular sales in the home market.

Department's Position: Following the comments received after our preliminary results of review, the Department requested and received additional information from Nissan and Shikoku regarding home market prices and quantities for all granular and non-granular sales of TCA and DCA products. (We did not request further information on cyanuric acid because Monsanto did not provide a sufficient allegation of fictitious markets with regard to Shikoku's sales of the product, and because Nissan is excluded from the order on cyanuric acid.) We requested prices and quantities since the effective date of the antidumping duty orders. The data we received covers products which are chemically identical to the merchandise exported to the United States, and covers tablet forms of TCA and DCA that contain additional chemicals.

On the basis of these data we conclude that no fictitious markets have been created for granular TCA and DCA through sales of chemically-identical merchandise in the home market. Both the granular and powdered forms of these products exhibited downward price trends for the periods reviewed. Where the rate of decline in the prices of the chemically-identical powdered product differed significantly from that of the granular product, we found that sales of powder were small throughout the period. Further, the quantities of granular product either remained constant or increased during the period we examined, so that revenues from granular products did not decline from falling prices. If a fictitious market were created for sales of granular product, we would expect to see less of that product sold and more of the powdered product sold to offset lost revenues from granular sales. This was simply not the case.

Moreover, we found no evidence that home market granular sales of TCA and DCA were restricted sales or not bona-fide sales. Again, because the granular product was the predominant form of chemically-identical merchandise sold in the home market, we cannot conclude that these were fictitious sales within the meaning of section 773(a)(1)(B).

Therefore, we considered only the granular sales of TCA and DCA in the home market as comparison merchandise to establish foreign market value. (For a discussion of tablet sales, refer to our position to comment 3). Prior to any revocation of the orders on TCA and DCA, we intend to verify Shikoku's home market non-granular prices for TCA and DCA.

Comment 3: As part of the fictitious market allegation, Monsanto maintains that the Department should investigate Nissan's unreported home market sales of tablets that the Department discovered at verification.

Nissan claimed these products were "chemically different" because of additional chemical ingredients. However, Monsanto, after review of the information on these products, contends they are forms of TCA and DCA, sometimes with excipients added to vary the rate of dissolution.

In Monsanto's view, the additional chemicals do not change the essential nature of the product. In response to Nissan's arguments that different uses and advertising for tablet products affect their prices, Monsanto claims that these factors are irrelevant because the Department has already rejected use as a basis for determining the proper comparison merchandise. Moreover, advertising emphasizes the feature tablets have in common with granular products. Monsanto disputes Nissan's claims that Japanese government regulations treat tablet products differently from granular products. Finally, the fact that tablets are marketed and distributed differently does not change the fact that the chemically-identical and non-chemically identical products are similar.

For these reasons, Monsanto asks that the Department examine whether prices of tablet TCA and DCA with chemical additives move in such a fashion as to render home market sales of chemically-identical granular product fictitious.

Department's Position: We are not necessarily persuaded that price movements for the non-chemically-identical merchandise (tablet TCA and DCA with chemical additives) are relevant for determining whether a fictitious market exists in the home market for the chemically-identical

granular product. In particular, we are concerned that such merchandise might not be considered "similar" within the meaning of section 771(16). If it were not similar merchandise, then it could not serve as an alternative basis for computing foreign market value. If we cannot use the prices of non-similar merchandise as the basis for foreign market value, we see no reason to disregard home market sales for chemically-identical merchandise based upon price trends for non-similar merchandise.

Assuming that the prices of the non-chemically-identical merchandise are relevant to this question, we have analyzed the data provided by both Nissan and Shikoku. In all cases, we found that price trends for the tablet products containing additional chemicals generally followed those of the chemically-identical granular product in the home market. In some cases, the decrease in prices of tablet fell less rapidly than the prices of granular products, or followed seasonal fluctuations. Factors such as marketing, advertising and uses may affect price movements if the market for tablet products is not interchangeable with the market for granular products. Nissan has provided plausible reasons why tablets would not be sold or marketed to purchasers of granular products. Consequently, it is reasonable to assume that prices for tablets and granular products might, in some cases, be different for reasons unrelated to the establishment of a fictitious market.

Given the general uniformity of the price trends, we determine that the evidence before us does not support a finding that a fictitious market exists for chemically-identical merchandise based upon price movements of non-chemically-identical merchandise.

Comment 4: Monsanto claims that the information provided on fictitious markets by Shikoku is invalid because Shikoku has failed to provide adequate price data over time. Further, Shikoku has failed to provide information regarding chemical composition, cost, advertising, marketing and channels of trade at the level of specificity requested. Therefore, Monsanto asks that the Department base its determination on the best information available, which is the information submitted by Nissan.

Department's Position: We requested and received additional information from Shikoku, and we are satisfied that Shikoku has provided us with sufficient information on the prices of other merchandise sold in the home market. Based on that information, we have concluded that Shikoku did not create a fictitious market for sales of the identical merchandise in the home market, as explained in our positions to comments 2 and 3.

Comment 5: Monsanto argues that respondents have overstated the value of by-product credits claimed to offset raw material costs in its cost of production calculations. Monsanto maintains that the true value of these by-product credits should either be the market value, less any associated processing costs, or, if transferred internally from another cost center, the cost of manufacture in accordance with standard cost accounting practice. Further, Monsanto argues that the Department should clarify what is meant by valuing by-product credits at "fully-loaded cost."

Nissan explained that it uses a process cost system that accumulates and transfers actual costs at each stage of production. Nissan records all costs including raw materials, factory overhead and labor on a cost of manufacture sheet. By-products are valued and credited at cost of manufacture.

Department's Position: By examining inventory records we found that when a product is transferred into cyanuric acid production, all associated costs are transferred with the product, including factory overhead, labor, and divisional general and administrative expenses. When a by-product resulting from that production is recycled back inot cyanuric acid production, the by-product is credited to cyanuric acid production at the same cost as the costs incurred in the original production of the by-product. Because respondents have demonstrated that by-products transfer with all associated costs of production, we have accepted respondents' claims that by-products are valued at fully-loaded cost.

Comment 6: Monsanto further alleges that certain processing costs are incurred when by-products are recycled into cyanuric acid production. Certain materials must be segregated to obtain a usable form of the by-product. For example, when Nissan recycles a by-product back into cyanuric acid production, carbon dioxide must be separated out to obtain a pure by-product. Monsanto suggests that the Department engage an independent chemical expert to determine whether Nissan has accounted for all costs associated with recycling the by-product. Similarly, Monsanto alleges that Shikoku failed to separately identify the additional processing costs necessary to convert the by-product into a usable input in cyanuric acid production, and it failed to provide the actual amount of credit claimed to offset raw material cost.

Shikoku maintains that the Department requested and analyzed additional data concerning Shikoku's credit for by-product. Shikoku provided additional information regarding its by-product credit which showed that the amount was insignificant and would have had virtually no effect on overall cost of production.

Department's Position: We verified that Nissan recycles the by-product at the same unit cost as the cost of manufacture. We also verified that Nissan incurs no additional processing costs for recycling the by-product.

We found that the value of Shikoku's by-product credit, less its conversion costs, resulted in an insignificant reduction in raw material costs. Even without the credit for by-product recycled into cyanuric acid and chlorinated derivatives production, Shikoku's home market prices would still be above its cost of production.

Comment 7: Monsanto claims that the Department did not verify the unit costs for all raw material inputs used by respondents. These costs are necessary to determine whether reported raw material prices were accurate. At Nissan's verification, the Department did not select the major raw materials used in the production process, such as urea. At Shikoku's verification, the only input verified was urea for a one-month period. Since Shikoku's usage rate for raw materials was different from what Monsanto's market research suggests, Monsanto argues that the Department cannot be certain that costs for raw material inputs were accurately reported.

Nissan maintains that the Department verified selected raw material costs for steam, pure water, and electricity, and confirmed the unit costs of all raw materials even though this was not explicitly stated in the verification report. Shikoku maintains that the Department verified the prices and consumption of four critical inputs.

Department's Position: We verified all of Nissan's prices for raw materials on a per unit basis. Where Nissan manufactured input materials internally, we traced the unit costs of all major raw materials from its own cost centers to cyanuric acid production. We verified all of Shikoku's raw material costs from the annual cost of production worksheet and confirmed that unit prices reported in the responses were accurate. We also verified the usage rates for each raw material from the same worksheet. We compared these usage rates to usage rates for the month of May and found

them to be consistent with the annual usage rates. Further, the Department is not required to verify every piece of information in the response. The purpose of verification is to confirm overall accuracy and completeness of the response, not to conduct an exhaustive examination of the respondent's entire response. (*see, Monsanto Company* v. *United States*, 698 F. Supp. 275 (CIT 1988)).

Comment 8: Monsanto questions Nissan's claimed losses in steam and electricity due to "in-house use" (transmission from one cost center to another). Nissan should clarify what it means by losses to "in-house use" and whether these costs should have been included in factory overhead in the cost of production. If these costs were included, Monsanto wants to confirm that these reported costs were accurate. Without access to the verification exhibits, Monsanto cannot determine whether these costs were adequately verified.

Further, Monsanto wants to confirm Nissan's claim that additional costs for chilled water have been fully reported in its cost of manufacture report.

Nissan claims that the cost of manufacture reflects both the cost of steam consumed and lost and all costs incurred in connection with the use of chilled water. The in-house use to which the verification report refers is the cost for heating administrative offices which was included in factory overhead.

Department's Position: We verified that Nissan accounts for losses in transmission in its internal accounting system and that it had reported these costs. For example, we found that budgeted costs for electricity were charged to each cost center on a periodic basis, and reconciled every six months with actual costs. These costs were accumulated under factory overhead and charged or credited to the cost centers that use electricity.

Monsanto challenged our determination not to release verification exhibits, pursuant to section 777(c)(1)(A) of the Tariff Act. The issue was dismissed as a result of an out-of-court settlement. Therefore, the issue is moot.

Comment 9: Monsanto argues that respondents failed to identify which machinery was used to produce the merchandise under review. Monsanto claims that it is necessary to know the types of equipment used for cyanuric acid and chlorinated derivatives production in order to determine whether reported depreciation costs were accurate. Monsanto requests access to the list of machinery that was submitted to Department officials at verification.

Nissan contends that the Department was able to determine the completeness of the list of machinery, and Monsanto is not entitled to the list of machinery to verify depreciation costs.

Department's Position: Because the issue of releasing verification exhibits has been rendered moot, Monsanto's request for access to the list of machinery is also moot. At verification, we selected individual pieces of machinery to verify the method of depreciation for fixed assets and the accuracy of reported expenses. We traced the expenses for each selected item to the depreciation ledgers and found reported depreciation expenses to be accurate.

Comment 10: Monsanto questions Nissan's methodology for treating the proceeds from the sale of fully depreciated assets as income rather than as a credit to depreciation expense.

Nissan contends that it treated proceeds from the sale of fully-depreciated assets as credits to depreciation expense, not as income, in accordance with standard accounting procedure.

Department's Position: We verified that Nissan credits the depreciation expense with the sale of fully depreciated assets. Therefore, the methodology Nissan used for depreciation expense is consistent with Monsanto's suggested methodology and in accordance with generally accepted accounting principles.

Comment 11: Monsanto alleges that, although Shikoku included depreciation for equipment used specifically to produce cyanuric acid and its chlorinated derivatives, Shikoku did not explain how depreciation costs were allocated for machinery used to produce other products as well as cyanuric acid.

Shikoku contends that the Department did verify depreciation expense for machinery used to produce the subject merchandise by satisfactorily tracing through the claimed expenses to the accounting records for a selected machine.

Department's Position: We verified Shikoku's depreciation expense from annual cost of production worksheets and fixed asset ledgers. Additionally, we selected an individual piece of machinery used in cyanuric acid production to verify the method for allocation of depreciation expense for machinery used in cyanuric acid production. We did not specifically verify the allocation of depreciation costs for machinery used to produce other products as well as cyanuric acid. However, we found that the allocation method used for depreciation of machinery for products under review was reasonable.

Comment 12: Monsanto claims that respondents failed to explain how certain labor costs were calculated and allocated. Specifically, Monsanto argues that Nissan's explanation of its standard labor costs for factory workers did not clarify how contract labor costs were calculated, nor did it clarify how the costs for supervisory personnel were allocated to particular cost centers. Monsanto also claims that Shikoku has failed to explain how its labor costs were allocated to cyanuric acid production. Since the Department examined only one month's labor expenses at Shikoku, the Department failed to determine whether all relevant labor costs had been allocated.

Nissan claims that is uses standard labor costs to calculate subcontract labor costs, although the labor costs reported were based on actual wages paid. Shikoku argues that the Department verified Shikoku's labor expenses in great detail and substantiated Shikoku's most significant labor expenses for packing, as well as other direct labor and indirect service department expenses.

Department's Position: We verified that Nissan's contract labor was separately reported and it was calculated based on the standard labor rates used for factory personnel. The standard labor rate was calculated as the average wage rate for all workers times actual number of days worked by a specific group. The costs for supervisory personnel, allocated to cyanuric acid production, were based on the average number of hours spent at the cyanuric acid production center.

We examined Shikoku's labor expense in detail for both direct labor, packing and indirect service expenses. We examined all the components that went into Shikoku's labor expense calculation, including bonuses, overtime, welfare and reserve for retirement. We examined a wage summary for different products for a one month period, including cyanuric acid production, and verified the labor expenses that went into production of cyanuric acid. Although we selected labor expenses for one month, verification is a representative sampling to check for accuracy, not an exhaustive examination of the records. Therefore, we feel the verification of labor expense was adequate.

Comment 13: Monsanto claims that factory overhead expenses were incorrectly calculated and verified. For example, Shikoku misallocated transportation and quality control

expenses on the basis of plant-wide sales volume rather than on the basis of products with which costs were directly associated. Further, Monsanto argues that, since Nissan has not reported any warehouse expense for raw materials, the Department should have verified how Nissan handles its storage costs for raw materials.

Shikoku maintains that its factory overhead expenses are allocated on a monthly basis over five product-specific cost centers. This is contrary to Monsanto's claim that it allocates on a plant-wide basis. Nissan claims that it does not incur storage expenses for raw materials.

Department's Position: We verified that Shikoku allocated transportation and quality control expenses according to total sales for five specific product centers and found that the percentages of allocation were reasonable. We verified that Nissan incurs no warehousing cost for raw materials because Nissan did not store raw materials.

Comment 14: Monsanto argues that respondents incorrectly calculated certain SG&A expenses. For example, Nissan incorrectly claimed as a credit to SG&A expenses the rental income from company-owned housing. Since this is non-operating income, Monsanto claims that it should not be treated as an offset to SG&A for cost of production.

In addition, Shikoku treated interest income as an offset to its interest expense. Monsanto claims that this offset is impermissible unless interest income is directly related to the financial costs of borrowing, such as interest earned on mandatory compensating balances. Monsanto claims that Shikoku has not established such a relationship between income and expense. Moreover, Shikoku has incorrectly allocated sales, general and administrative expenses on the basis of historic experience rather than based upon ratios of sales or cost of goods sold.

Nissan argues that rental income should be treated as an offset to SG&A expenses because costs of providing housing to workers are included in SG&A. Shikoku points out that the Department verified the allocation ratios for SG&A expenses and that the Department has already revised the allocation of these expenses to cost of goods sold. Therefore, there is no need to make this adjustment to SG&A expenses.

Department's Position: Normally, we would allow the claim for rental income as an offset to housing expenses in SG&A. However, these expenses must be itemized in SG&A, so that we can determine the extent to which housing expenses are offset by the rental income. Since we were unable to determine the amount of these expenses, we recalculated cost of production to disallow the claim for rental income as an offset to SG&A, and still found no sales below cost.

We allowed Shikoku's claim for interest income because it was directly related to the cost of borrowing for production. In order to borrow short-term loans, Shikoku is required to keep a compensating balance that earns interest. We treat short-term interest earned as an offset to short-term interest expense, because interest income from short-term investments is normally considered related to current operations. (See, *The Asociacion Colombiana de Esportadores de Flores* v. *United States*, Consol. Court No. 87–04–00622, Slip Op. 89–3). We also reallocated Shikoku's general and administrative expenses to cost of goods sold for the preliminary results of review, so there is no need to further adjust Shikoku's cost of production.

Comment 15: Monsanto claims that respondents have understated research and development costs. In addition, respondents have not adequately explained how such costs are allocated. For example, Nissan has allocated these costs by relative cost of goods sold for all products, rather than by the amount of time spent on specific products. Monsanto argues that Nissan's allocation method results in a shift of research and develoment costs away from relatively low value products so as to artificially reduce reported research and development costs for cyanuric acid and chlorinated derivatives. Monsanto also argues that Shikoku has expensed research and development costs which should have been capitalized.

Nissan argues that research and development expenses were included in the corporate research and development and correctly allocated on the basis of cost of goods sold.

Department's Position: We verified that Nissan allocates its research and development expenses on the basis of cost of goods sold in accordance with standard accounting practice. Normally, research and development costs for a product are aggregated with total research and development and allocated to all products of the company. Only in cases when research and development is product-specific and plays a significant role in the design and development of a certain product, would the Department require research and development expenses to be allocated to a specific product (*see, Cell Sit Transceivers from Japan*, 49 FR 43980). We verified that research and development was not product-specific to cyanuric acid and its chlorinated derivatives. Since we found research and development costs were appropriately allocated to cyanuric acid and its chlorinated derivatives, we determine that research and development costs were not understated.

With regard to Shikoku's reported expenses, we found that research and development costs were charged as an expense in the period in which they are incurred, which is in accordance with generally accepted accounting principles. (*see, Accounting for Research and Development Costs*, Statement of Accounting Standards Board No. 2, para 12 (Financial Accounting Standards Bd. 1980).) Therefore, we have accepted Shikoku's methodology for allocating research and development expenses.

Comment 16: Monsanto claims that the department should have requested Shikoku to recalculate the rebate amounts to exclude rebates on paid on non-subject merchandise on a sale-by-sale basis, rather than to revise rebate amounts for all transactions by a percentage amount based upon the experience of a single customer chosen at verification. By recalculating the rebate amounts for all treansactions the department would ensure that no cash rebate claims were allowed for non-subject merchandise.

Shikoku argues that the courts have held that a claim for adjustments need only be reasonable. Since the Department has consistently allowed calculations of cash rebates on an average basis, there is no reason to depart from the Department's established practice. This practice is in accord with the principles of sampling and administrative ease of verification.

Department's Position: At verification, we requested that Shikoku recalculate its rebates for one customer to eliminate the rebates on merchandise not subject to this review. We reduced the rebates for all home market sales by the same percentage. We are not persuaded that basing the revision on the experience of one customer distorts the calculation for all rebates.

Comment 17: Monsanto claims that respondents have been making sales of TCA and DCA at less than fair value both before and after the effective date of the preliminary results of review and tentative determination to revoke in part (53 FR 46898, November 21, 1988). Therefore, the Department should not revoke the order with respect to TCA and DCA because sales of this

merchandise are likely to continue to be made at less than fair value.

Shikoku questions Monsanto's opposition to revocation because it is based on a comparison of U.S. price levels for only 3 months in 1988 to average price levels for Shikoku in the review period April 1, 1987 through March 31, 1988. Shikoku claims that Monsanto has completely disregarded the parties' sworn affidavits and three-year history of sales above foreign market value. Shikoku also claims there is little likelihood of future U.S. sales below foreign market value given this experience.

Department's Position: Section 353.54 of the Commerce Department's regulations (19 CFR 353.54 (1988)), provides that the Department may revoke antidumping orders if there is no likelihood of resumption of sales at less than fair value. (Because the tentative revocation was published pursuant to the regulations in effect prior to April 7, 1989, we must proceed to revoke under those regulations.) Respondents have submitted sworn affidavits stating that TCA and DCA sales will not be made at less than foreign market value in the future, in accordance with the regulations. We are currently reviewing entries of TCA and DCA for the period April 1, 1988 through November 20, 1988, the date of tentative revocation for TCA and DCA products. When we complete a review of those entries, we can determine at that time, based on the information pressented to us, whether future sales are likely to be at less than fair value.

Comment 18: Shikoku claims that credit expenses should be recalculated using a home market weighted-average interest rate and home market credit terms for the third and fourth review periods. Credit terms for U.S. sales should be based upon an average credit term of days outstanding between shipment and payment. In addition, packaging expenses should be recalculated based upon different processing costs. Packaging expenses which were revised for June 1986 in the fourth review should be applied to the cost of the drum only, not to the total packaging costs.

Department's Position: We agree in part and have recalculated home market credit and packaging expenses. We have used home market weighted-average interest rates and credit terms for home market credit expenses in the third and fourth reviews. Credit terms for U.S. sales in the third review were based upon the actual number of days outstanding between shipment and payment. Our practice is to calculate credit expenses, if possible, based upon the actual number of days payment is outstanding. We have also recalculated packaging expenses for the fourth review, in accordance with Shikoku's comment.

Final Results of the Review: As a result of our review of the comments received and the correction of certain clerical errors, the final results are revised from those presented in the preliminary results of review for merchandise produced by Shikoku for the periods April 1, 1985 through March 31, 1986 and April 1, 1986 through March 31, 1987 as follows:

Manufacturer/Exporter and Product	Period	Margin (percent)
Nissan Chemical Industries:		
Dichloro Isocyanurates	4/1/85–3/31/87	0
Trichloro Isocyanuric Acid	4/1/85–3/31/87	0
Shikoku Chemicals Corporation:		
Cyanuric Acid	4/1/85–3/31/86	1.89
	4/1/86–3/31/87	5.76
Dichloro Isocyanurates	4/1/85–3/31/87	0
Trichloro Isocyanuric Acid	4/1/85–3/31/86	0.04
	4/1/86–3/31/87	0.05

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

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins for the most recent period for each firm shall be required. Since the margins for trichloro isocyanuric acid produced by Shikoku are less than 0.5 percent and, therefore, *de minimus* for cash deposit purposes, the Department shall not require a cash deposit of antidumping duties on entries of trichloro isocyanuric acid from Shikoku. For shipments of cyanuric acid from Nissan, the Department will not require a cash deposit of estimated antidumping duties, since the order excludes sales of cyanuric acid produced by Nissan.

For any future entires of cyanuric acid manufactured or exported by a new Manufacturer and/or exporter, not covered in this or any prior administrative reviews, whose first shipments occurred after March 31, 1987, and who is unrelated to any reviewed firm or previously reviewed firm, a cash deposit of 5.76 percent shall be required. For any future entries of trichloro isocyanuric acid and dichloro isocyanurates manufactured or exported by a new manufacturer and/or exporter, not covered in this or any prior administrative reviews, whose first shipments occurred after March 31, 1987, and who is unrelated to any reviewed firm or previously reviewed firm, the Department shall not require a cash deposit of estimated anticumping duties.

These deposit requirements are effective for all shipments of Japanese cyanuric acid and its chlorinated derivatives entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

On November 21, 1988, we tentatively determined to revoke the antidumping duty orders on dichloro isocyanurates and trichloro isocyanuric acid (53 FR 46896). If this revocation is made final, it will apply to all unliquidated entires of dichloro isocyanurates and trichloro isocyanuric acid from Japan, entered, or withdrawn from warehouse, for consumption on or after the date of publication of that notice.

This adminstrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Regulations (19 CFR 353.22 (1989).

Dated: January 9, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90–1084 Filed 1–17–90; 8:45 am]

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[C–549–804]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Carbon Steel Butt-Weld Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Thailand of carbon steel butt-weld pipe fittings ("pipe fittings") as described in the "Scope of Investigation" section of this notice. The estimated net bounty or grant is 2.53 percent and valorem for all

manufacturers, producers or exporters in Thailand of pipe fittings.

We are directing the U.S. Customs Service to continue suspension of liquidation on all entries of pipe fittings from Thailand that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit on entries of these products in an amount equal to 2.53 percent ad valorem.

EFFECTIVE DATE: January 18, 1990.

FOR FURTHER INFORMATION CONTACT: Kay Halpern or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–0192 or 377–3217.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we determine that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Short-Term Loans Provided under the Export Packing Credits Program
- Tax Certificates for Exports
- Business Tax and Import Duty Exemptions for Machinery under Section 28 of the Investment Promotion Act.

The estimated net bounty or grant is 2.53 percent ad valorem.

Case History

Since the last **Federal Register** publication pertaining to this investigation [Preliminary Affirmative Countervailing Duty Determination: Carbon Steel Butt-weld Pipe Fittings from Thailand, 54 FR 46438, November 3, 1989 (Preliminary Determination)], the following events have occurred. From November 6 through 17, 1989, we verified the responses of the Government of Thailand (GOT) and the three respondent companies, Awaji Sangyo Co., Ltd. (AST), Thai Benkan Co., Ltd. (TBC), and TTU Industrial Corp., Ltd. (TTU). We received amended responses correcting minor discrepancies found at verification from TTU on December 5, 1989, and from AST and TBC on December 6, 1989.

A public hearing was held on December 15, 1989. we received case briefs from petitioner and respondents on December 11, 1989; rebuttal briefs were submitted by all parties on December 14, 1989.

Scope of Investigation

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. tariff schedules were fully converted to the "Harmonized Tariff Schedule" (HTS), and 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. The Department is providing both the appropriate "Tariff Schedules of the United States Annotated" (TSUSA) item number and the appropriate HTS item number with its product descriptions for convenience and customs purposes. The Department's written description remains dispositive as to the scope of the product coverage.

The products covered by this investigation are carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings). These products are classified under HTS subheading 7307.93.30 and were formerly classifiable under TSUSA item 601.8800.

Analysis of Programs

For purposes of this investigation, the period for which we are measuring bounties or grants ("the review period") is calendar year 1988, which corresponds to the fiscal year of all three respondent companies. Based upon our analysis of the petition, the responses to our questionnaires, verification, and written comments filed by petitioner and respondents, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following programs:

A. Short-Term Loans Provided Under the Export Packing Credits Program

Export packing credits (EPCs) are short-term loans used for either pre-shipment or post-shipment financing. Exporters apply to commercial banks for EPCs. The commercial banks, in turn, must submit an application for approval to the Bank of Thailand (BOT). Under the "Regulations governing the Purchase of Promissory Notes Arising from Exports" (B. E. 2528), effective January 2, 1986, the BOT repurchases promissory notes issued by creditworthy exporters through commercial banks. To qualify for the repurchase arrangement, promissory notes must be supported by a letter of credit, sales contract, purchase order, usance bill or warehouse receipt. The notes are available for up to 180 days, and interest is paid on the due date of the loan rather than the date of receipt.

The BOT charges an interest rate of five percent per annum to commercial banks on repurchased packing credits issued in connection with export of goods specified in categories one and two of the "Notification of the Board of Investment No. 40/2521." Commercial banks are permitted to charge exporters no more than seven percent per annum for the purchase of such notes.

On the due date of the loan, the BOT debits the commercial bank's account for the principal amount and the interest charged the commercial bank. If the export shipment is not made by the due date (in the case of pre-shipment loans) or the foreign currency is not received by the due date (in the case of post-shipment loans), the BOT charges the commercial bank a penalty of eight percent over the full term of the loan.

Similarly, on the due date of the loan, the commercial bank debits the exporter's account for the principal amount and the maximun of seven percent interest charged the exporter. If a penalty has been assessed by the BOT, the commercial bank passes it on to the exporter.

The penalty is refunded to the commercial bank by the BOT and by the commerical bank to the exporter if the company can prove shipment of the goods took place within 60 days after the due date (in the case of pre-shipment loans), or the foreign currency was received within 60 days after the due date (in the case of post-shipment loans). Otherwise, the penalty is not refunded. If only a portion of the goods was shipped or only a portion of the foreign currency was received by the due date, the exporter receives only a partial refund, proportional to the value of the goods shipped or the foreign currency received. The purpose of the penalty charge is to ensure that companies take out EPC loans only to finance actual export sales.

On October 1, 1988, the GOT issued new regulations that coexisted with the prior regulations until December 31,

1988. Effective October 1, 1988, all first-time applicants for EPCs had to apply under the new regulations. Effective January 1, 1989, all applicants had to apply under the new regulations. EPCs received under the old regulations but still outstanding as of January 1, 1989, continued under the old regulations until their expiration dates. Under the new regulations, only pre-shipment financing is permitted. The maximum rate commercial banks can charge exporters was raised from seven to ten percent. In addition, commercial banks can now lend up to 100 percent of the shipment value, but can only rediscount up to 50 percent of the loan amount with the BOT, as opposed to the old regulations, under which commercial banks could lend up to 90 percent of the shipment value and the BOT rediscounted 100 percent of the loan amount. The penalty fee was lowered from eight to five percent and is charged only over that portion of the loan (*e.g.*, 50 percent) rediscounted with the BOT.

We verified that TBC and TTU received EPC loans on which interest was paid during the review period. Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

As the benchmark for short-term loans, it is our practice to use the predominant form of short-term financing or a national average commercial interest rate. In the absence of a predominant form of short-term financing in the Thai economy, we are using the weighted-average interest rate charged by commercial banks on domestic loans, bills, and overdrafts during 1988, and, where EPC loans were issued in 1987, the weighted-average interest rate of the same composition for 1987. This is the benchmark that we have applied in all previous Thai cases, most recently in Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order: Ball Bearings and Parts Thereof from Thailand; Final Negative Countervailing Duty Determinations: Antifriction Bearings (Other Than Ball or Tapered Roller Bearings) and Parts Thereof from Thailand, 54 FR 19130, May 3, 1989 (Bearings).

Comparing the weighted-average interest rates for 1987 and 1988, as verified at the BOT, to the seven percent rate charged on EPCs on which interest was paid during the review period, we find that the rate on EPCs is preferential, and, therefore, confers a bounty or grant on exports of pipe fittings.

To calculate the benefit from the EPC loans on which interest was paid during the review period, we followed the short-term loan methodology which has been applied consistently in our past determinations (see, for example, *Bearings*) and which is described in more detail in the *Subsidies Appendix* attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 49 FR 18006, April 26, 1984; see also, *Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT, 1985).

We compared the amount of interest actually paid during the review priod to the amount that would have been paid at the benchmark rate. Because interest is paid on the due date of the loan, together with any penalty payments charged, the benefit from loans on which penalties are charged is not realized unless or until the penalties are refunded. Accordingly, for each loan on which penalties were charged, we treated penalties debited but not refunded during the review period as interest paid and subtracted these penalties, along with the seven percent EPC interest paid, from the amount of interest that would have been paid at the benchmark rate. In those instances where the amount of interest paid exceeded the amount of interest that would have been paid at the benchmark rate, we have excluded those those loans from our calculations. Similarly, we included in our calculations all loans on which penalties were refunded during the review period, even though the interest on some of these loans was paid before the review period.

Because we verified that all EPC loans received by respondents were tied to specific export shipments, we calculated the amount of interest that would have been paid at the benchmark rate on loans covering exports of pipe fittings to the United States and subtracted the amount of interest that was actually paid. We then divided the result by the value of respondents' exports of pipe fittings to the United States during the review period to obtain an estimated net bounty or grant of 0.13 percent ad valorem.

TTU has argued that, in addition to subtracting the interest actually paid from the interest that would have been paid at the benchmark rate, we should also subtract an interest cost to the company associated with penalty payments which were subsequently refunded. TTU argures that because it had to forego use of these funds, the company had to borrow money and, therefore, incurred increased financing costs. TTU has calculated the increase in its financing costs by using the national average benchmark rate described above. We are not subtracting any costs due to subsequently refunded penalty payments because TTU has failed to demonstrate that such costs were actually incurred (see, DOC Position to Comment 6).

B. Tax Certificates for Exports

The GOT issues to exporters tax certificates which are freely transferable and which constitute a rebate of indirect taxes and import duties on inputs used to produce exports. This rebate is provided for in the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act" (Tax and Duty Act). The rebate rates under the Tax and Duty Act are computed on the basis of an Input/Output (I/O) study published in 1980, based on 1975 data, and updated in 1985 using 1980 data.

Using the I/O study, the Thai Ministry of Finance computes the value of total inputs (both imports and local purchases) used in a discrete range of sector-specific products at ex-factory prices. It also calculates the import duties and indirect taxes on each input. The Ministry then calculates two rebate rates. The "A" rate includes both import duties and indirect taxes. The "B" rate includes only indirect doemstic taxes. The "B" rate is claimed when firms participate in Thailand's customs duty drawback program or duty exemption program on imported raw materials, or when firms do not use imported materials in their production process. New rebate rates, announced on February 5, 1986, were computed using the study published in 1985. Since 1986, the "A" rate applicable to exports of pipe fittings has been 8.11 percent and the "B" rate has been 4.98 percent. The "A" or "B" rate, as appropriate, is then applied to the FOB value of the export to determine the amount of rebate that will be provided.

Under the Tax and Duty Act, the rebates are paid to companies through tax certificates which can be used to pay other tax liabilities. These tax certificates can also be sold to third parties at a discount for cash.

Because this program is available only to exporters, it is countervailable to the extent that it confers an overrebate of indirect taxes. We verified that all three respondent companies earned the "B" rate on exports made during the review period. Because benefits under this program are (1) based on a fixed percentage of the FOB value of each export shipment, (2) not dependent on a company's ultimate income tax liability, and (3) available to any exporter who submits the proper export documents within one year of shipment, we

determine, in accordance with past practice, that these benefits should be assessed at the time they are earned, *i.e.*, on the date of export. *See*, for example, Final Countervailing Duty Determination and Countervailing Duty Order: Certain Steel Wire Nails from New Zealand, 52 FR 37196, October 5, 1987 (Nails from New Zealand). We therefore determined that all three respondents benefitted from this program during the review period.

To determine whether an indirect tax rebate system confers an overrebate and, therefore, a bounty or grant, we must apply the following analysis. First, we examine whether the system is intended to operate as a rebate of both indirect taxes and import duties. Next, we analyze whether the government properly ascertained the level of the rebate. This includes a review of a sample from the I/O study used by the Government to quantify the rebate. We analyze the documentation supporting the study to determine the accuracy of the sample on input coefficients, the import prices and rates of duty on imported inputs, the ratio of imported inputs to domestically produced inputs (when, for a given imported input, there is also domestic production of the input), and the exchange rates used to convert import prices denominated in a foreign currency to the local currency. Finally, we review whether the rebate schedules are revised periodically in order to determine whether the rebate amount reasonably reflects the amount of duty and indirect taxes paid.

When the study upon which the indirect tax and import duty rebate system is based is shown to bear a reasonable relation to the actual indirect tax rebate incidence, the Department will consider that the system does not confer a bounty or grant unless the fixed amount set forth in the rebate schedule for the exported product exceeds the amount rebated for duties and indirect taxes on inputs physically incorporated into the exported product. When the system rebates duties and indirect taxes on both physically incorporated and non-physically incorporated inputs, we find a bounty or grant exists to the extent that the fixed rebate exceeds the allowable rebate on physically incorporated inputs.

In the Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Certain Apparel from Thailand, 50 FR 9818, 9820, March 12, 1985, we examined Thailand's rebate system under the Tax and Duty Act. We found that the program was intended to rebate indirect taxes and import duties and that the rebate rates had been reasonably calculated. However, to the extent that the program rebates indirect taxes and import duties on non-physically incorporated inputs, we found that the remissions are excessive. In subsequent investigations involving products from Thailand, the most recent of which was Bearings, we undertook the analysis described above and reiterated that these rebates are countervailable only to the extent that the remissions are excessive. In the present investigation, we verified that rebates under this program continue to reasonably reflect the incidence of indirect taxes and import duties on inputs.

To determine whether, and the extent to which, the tax certificates confer an excessive remission of indirect taxes, we calculated the indirect taxes paid on physically incorporated inputs according to the most recent I/O table. We did not include import duties in our calculation of the tax incidence because the respondents earned the "B" rate on their exports. We divided the tax incidence on all items physically incorporated into all products classified in the secondary steel products sector, which includes carbon steel butt-weld pipe fittings, by the value of all domestically-produced finished goods in this sector. Given that the aggregated data used in the I/O study is broken down only by sector, and that each sector covers many individual products, it is impossible to isolate the value of domestically-produced pipe fittings.

Although the methodology described above is a deviation from that used in previous investigations involving products from Thailand (see, for example, Bearings), we believe that it more accurately reflects the amount of allowable rebate. In previous investigations we divided the tax incidence on all items physically incorporated in the subject merchandise only by the value of all domestically-produced finished goods in the sector to which the subject merchandise belongs, an apples-to-oranges comparison. In the present investigation we divided the tax incidence on all items physically incorporated in the sector by the value of all domestically-produced finished goods in the sector, a sector-to-sector, or apples-to-apples, comparison.

Furthermore, unlike previous investigations in which respondents either failed to provide a comprehensive list of all items physically incorporated into the sector, or failed to provide such information prior to verification, respondents in the present investigation have provided the necessary information in a timely manner.

In our preliminary determination we indicated that, by using the tax incidence on all inputs physically incorporated into secondary steel products, we may be including the tax incidence on inputs used in the production of pipe fittings but not physically incorporated into pipe fittings. However, at verification we found that, of the items which are used in the production of pipe fittings but not physically incorporated into pipe fittings, none of these items are physically incorporated into secondary steel products.

The value of all domestically-produced finished goods, as shown in the I/O tables, is an ex-factory value. However, because the rebate is applied to the FOB value of a company's exports, we must adjust the ex-factory value to reflect an FOB value. Due to the way in which the I/O tables are structured, it is impossible to isolate the wholesale margin and transportation costs applicable solely to domestically-produced finished goods. Therefore, as a surrogate, we divided the wholesale margin and transportation costs for all finished goods in the secondary steel sector, including imports, by the ex-factory value of imported and domestically-produced finished goods in the sector. We then multiplied the ex-factory value of all domestically-produced finished goods in the sector by this ratio. We added the result to the ex-factory value of domestically-produced finished goods in order to obtain the FOB-adjusted value.

In order to obtain the allowable rebate rate, we divided the tax incidence on all items physically incorporated into secondary steel sector products by the FOB-adjusted value of all domestically produced finished goods in the secondary steel sector. We then compared the authorized rebate rate of 4.98 percent, which is based on both physically and non-physically incorporated inputs, to the allowable rebate rate and found that there is an excessive remission of indirect taxes to exporters of pipe fittings. The difference between the two rebate rates equals the net overrebate. On this basis, we calculated an estimated net bounty or grant of 0.51 percent *ad valorem*.

C. Tax and Duty Exemptions Under Section 28 of the Investment Promotion Act

The Investment Promotion Act (IPA) of 1977 provides incentives for investment to promote development of the Thai economy. Administered by the Board of Investment, the IPA authorizes, among other incentives, the exemption

of import duties and domestic taxes with respect to qualifying projects. Section 28 of the IPA provides an exemption from payment of import duties and business taxes on machinery used to produce promoted products. We verified that all three respondent companies received exemptions under section 28 during the review period. We also verified that all three respondents are required to export a certain percentage of their output as a condition for receipt of benefits under this program.

Because benefits to the respondent companies under this program are contingent upon their export performance, and cover capital equipment (*i.e.*, machinery) which is not physically incorporated in the subject merchandise, we determine that the benefits provided to respondents under this program are countervailable.

We divided the total amount of exemptions received by respondents during the review period by the respondents' total export sales value during the review period. On this basis, we calculated an estimated net bounty or grant of 1.89 percent ad valorem.

II. Program Determined not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Thailand of pipe fittings under the following program:

IPA Section 36(1)

Section 36(1) of the IPA authorizes exemptions from import duties and business taxes on "raw and necessary materials." All three respondent companies received exemptions under this section of the IPA during the review period. However, we verified that all exemptions were received for items physically incorporated into exported goods and, therefore, do not constitute bounties or grants within the meaning of section 771(5)(A) of the Act.

III. Programs Determined not to be Used

We determine, based on verified information, that manufacturers, producers or exporters in Thailand of pipe fittings did not apply for, claim or receive benefits during the review period for exports of pipe fittings to the United States under the following programs, which were listed in the Notice of Initiation (54 FR 35914, August 30, 1989):

A. Electricity Discounts for Exporters
B. Rediscount of Industrial Bills
C. International Trade Promotion Fund
D. Export Processing Zones
E. Additional Incentives Under the IPA
- Section 31
- Section 33
- Section 34
- Section 36(2)
- Section 36(3)
- Section 36(4)

For a complete description of these programs, see the Preliminary Determination.

Comments

All written comments submitted by the interested parties in this investigation which have not been previously addressed in this notice are addressed below.

Comment 1

AST and TBC argue that we should calculate the benefit under the Tax Certificates for Exports Program according to when the tax certificates are received by the company. In support of their argument, they cite the Court of International Trade's (CIT's) 1987 decision in *Can-Am Corp.* v. *United States*, 664 F. Supp. 1444, which affirmed our finding in Final Affirmative Countervailing Determination and Countervailing Duty Order: Lime from Mexico, 49 FR 35672, September 11, 1984, (Lime from Mexico). In Lime from Mexico we determined not to include in the calculation of the benefit tax certificates known as CEPROFIs that had been received by respondents prior to the review period. The CIT upheld the Department's position because of the Department's "consistent practice" of attributing tax benefits "to the year in which they are realized." Citing Lime from Mexico, AST and TBC state that the Department calculated the benefit from CEPROFIs according to when the CEPROFIs were received.

Petitioner counters that we should calculate the benefit according to when the tax certificates are earned, *i.e.*, on the date of exportation, as we did in our preliminary determination. Petitioner argues that the Department refined its tax certificate analysis after the Can-Am decision and now recognizes that all tax certificate programs are not alike. Petitioner cites our October 1987 final determination in Nails from New Zealand, in which we timed benefits under the Export Performance Taxation Incentive (EPTI) tax credit program according to when the credits were earned. Petitioner cites our reasoning behind this decision, in which we ascertained that, since EPTI credits are based on a fixed percentage of the FOB value of exports and are not dependent on a company's ultimate tax liability, the company knows what the benefit will be when it is earned, *i.e.*, at the time of export. Petitioner notes that this exception to the year-of-receipt rule was codified in our proposed regulations under section 355.48(b)(7): "* * * in the case of an export benefit provided as a percentage of the value of the exported merchandise (such as a cash payment or an overrebate of indirect taxes), the benefit shall be timed according to the date of export." Petitioner concludes that the Thai tax certificate program should be treated like the EPTI program in Nails from New Zealand because it, too, is based on a fixed percentage of the FOB value of exports and is not dependent on a company's ultimate tax liability. The CEPROFI program, by contrast, is not based on export value and is dependent on a company's tax liability. Unlike the Thai certificates, CEPROFIs are not transferable and can only be used to pay federal income taxes. Petitioner notes that we proceeded to apply this new EPTI rule in subsequent investigations. See, for example, Final Affirmative Countervailing Duty Determination: Aluminum Electrical Conductor Redraw Rod from Venezuela, 53 FR 24763, June 30, 1988.

DOC Position

We agree with petitioner. As stated above in section I.B. of this notice, benefits under the Tax Certificates for Exports Program are (1) based on fixed percentage of the FOB value of each export shipment, (2) not dependent on a company's ultimate income tax liability, and (3) available to any exporter who submits the proper export documents within one year of shipment. As with the New Zealand EPTI credits, the benefit amount from the Thai Tax Certificates for Exports Program is known at the time of export, even though the actual cash is received later. Therefore, the fact that two of the respondents did not actually receive the tax certificates until after the review period is not relevant.

Comment 2

With regard to the calculation of the allowable rebate of indirect taxes under the Tax Certificates for Exports Program, respondents argue that, since we cannot isolate wholesale margin and transportation costs applicable solely to domestically-produced finished goods in the secondary steel sector, we should use one of the two alternatives. The first is to inflate the ex-factory denominator by multiplying it by one plus the actual wholesale margin and transportation cost mark-up on exports of domestically produced finished goods in the sector. The second alternative is to inflate the ex-factory denominator by first deriving a figure representing wholesale margin

and transportation costs applicable to domestically-produced output and then adding this figure to the ex-factory denominator. The derived figure is obtained by multiplying the wholesale margin and transportation costs applicable to all output in the sector (both imported and domestically produced) by the ratio of domestically-produced output to total output.

Petitioner argues that we should reject both of these alternatives because they rely on unverified assumptions. Namely, the first alternative assumes that the wholesale margin and transportation cost mark-up on exports of domestic output is the same as the wholesale margin and transportation cost mark-up on all domestic output. The second alternative assumes that the mark-up on total output (both imported and domestically-produced) is the same as the mark-up on domestic output. In lieu of verified information isolating the wholesale margin and transportation costs specific to domestically-produced output, petitioner advocates using the calculation applied in our preliminary determination.

DOC Position

For purposes of our preliminary determination, we attributed a line item of the I/O study's output table for secondary steel products as being solely applicable to domestically-produced finished goods. We used the values in this line item for wholesale margin and transportation costs to adjust the value of total domestically-produced finished goods in the sector from an ex-factory value to an FOB value. However, at verification we found that the wholesale margin and transportation costs in this line item applied to both domestically-produced and imported finished goods. We also found that, due to the way in which the I/O study is structured, the wholesale margin and transportation costs applicable solely to domestically-produced finished goods in the secondary steel sector cannot be isolated. Therefore, to derive a surrogate amount that most closely approximates these two values, we applied the second alternative proposed by respondents, which is described in detail in section I.B. of this notice. We determined that this method more closely approximates the values sought than does a derivation using values solely attributable to exports because exports are likely to pass through fewer hands, and thus incur less mark-up, than items produced and sold domestically or imported for sale in the home market.

Comment 3

Petitioner argues that the law requires us to calculate the allowable rebate for the Tax Certificates for Exports Program based on the tax incidence on items physically incorporated into the subject merchandise only. Petitoner advocates that we return to our practice of dividing the tax incidence on items physically incorporated in the subject merchandise only by the value of all products in the sector to which the subject merchandise belongs.

Respondents counter that the law does not specify at what level of disaggregation the physical incorporation test must be performed, thereby allowing us to use the tax incidence on items physically incorporated in the entire secondary steel sector as a surrogate for the tax incidence on items physically incorporated into the subject merchandise.

DOC Position

The I/O study is structured on a sectoral basis and, therefore, it is impossible to isolate the indirect tax incidence attributable solely to the subject merchandise. Accordingly, we have determined that it is appropriate to use the tax incidence on all items physically incoporated into secondary steel sector products to calculate the amount of the allowable rebate of indirect taxes under this program. *See*, section I.B. of this notice.

Comment 4

Petitioner contends that if the Department recognizes that limestone and fluorite, which are used in the steel-making process to remove impurities, are not physically incorporated into secondary steel products, it should likewise conclude that aluminum chloride and zinc chloride, which are classified under the Thai I/O section for basic industrial chemicals, are not physically incorporated into secondary steel products. Petitioner argues that the Department should therefore not include the tax incidence on basic industrial chemicals in its calculation of the allowable rebate under the Tax Certificates for Exports Program.

DOC Position

In Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Malleable Cast Iron Pipe Fittings from Thailand, 54 FR 6439, February 10, 1989 (Cast Iron Pipe Fittings), the Department verified that aluminum chloride and zinc chloride are physically incorporated into malleable cast iron pipe fittings during the galvanizing process. We therefore determined that "[b]ecause these chemicals are classified in the 'basic (industrial) chemicals' I/O section . . . the tax incidence on this I/O sector is allowable." Since malleable cast iron pipe fittings, like carbon steel butt-weld pipe fittings, are classified in the I/O study as secondary steel products, we determine that the tax incidence on basic industrial chemicals should be included in the allowable rebate for purposes of this investigation.

Comment 5

With regard to tax and duty exemptions under section 28 of the IPA, respondents argue that the duty deposit rate for TTU and TBC should be set at zero to reflect current non-use of this program and their claim that these companies will not use the program in the future. Specifically, TTU state that it will not use the program for the following reasons: (1) The company could apply for another exemption period under its existing promotion certificate, but it has stated in an affidavit that it will not do so; (2) we verified that it is rare for the BOI to grant more than one section 28 extension, and TTU has already received an extension; (3) TTU could get another extension under a new promotion certificate if it expanded its production capacity, but the company has no plans to expand its production capacity at this time; and (4) a program-wide change requirement makes no sense for "one-time benefits" that terminate before the preliminary determination and are unlikely to be renewed. TBC states that if a zero deposit rate for this program is calculated for TTU, then a zero deposit rate must be calculated for TBC.

Petitioner argues that the duty deposit rate should reflect the subsidy rate found for the review period. Petitioner gives the following reasons: (1) there has been no "program-wide change" altering the nature or existence of section 28; (2) although we verified that an extension is likely to be granted only once, we also verified that there is nothing to prevent a company from applying for a new certificate or an amendment extending the exemption period; (3) the Department does not accept affidavits from a respondent, such as the one from TTU, claiming that it will not apply for another extension; and (4) TTU's claim that it has no plans to expand its production capacity, and thus receive a new certificate with a new section 28 exemption, is speculative and unverifiable.

DOC Position

In accordance with Department practice, we only calculate a separate duty deposit rate if there has been a program-wide change. See, e.g., Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Anti-friction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Singapore, 54 FR 19125, May 3, 1989 (Bearings from Singapore), in which we stated that "[w]e do not consider information from beyond the review period unless there has been a program-wide change." Although there may be a change in respondents' usage of section 28 of the IPA, there has been no program-wide change, *i.e.*, no government-mandated change in the nature of the program itself. Since there has been no program-wide change with regard to this program, we have not calculated a separate duty deposit rate. If TTU and TBC continue not to use the program, this fact would be reflected in an administrative review.

Comment 6

With regard to section 31 of the IPA, petitioner argues that we should calculate a duty deposit rate for this program to reflect the fact that it was calimed by two of the respondents on their tax returns filed after the review period. Petitioner states that we should do so because (1) the benefits were received (*i.e.*, the tax returns were filed) before our preliminary determination, and (2) the amount of the benefit for each company was verified. Petitioner adds that a country-wide duty deposit rate can be calculate for the program by dividing this benefit by the respondents' review period export sales, or by pro-rating the benefit (by 50 percent) and dividing it by the value of respondents' verified export sales for the first six months of 1989.

Petitioner cites our Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Circular Welded Carbon Steel Pipes and Tubes from Thailand, 50 FR 32751, August 14, 1985 (*Pipes and Tubes*), in which we stated that, "where benefits arising subsequent to the review period are being used for the first time and where the receipt of the benefit is verified, we deem it appropriate to adjust the cash deposit rate to reflect the level of benefits accruing to current imports."

Respondents argue that the duty deposit rate should remain at zero to reflect the non-use of this program during the review period. They argue that (1) the Department calculates income tax benefits based on the tax return filed during the review period, and benefits under this program were not claimed on the returns filed during the review period; (2) there has been no program-wide change; and (3) a duty deposit rate cannot be calculated because we do not have sales figures for the twelve months of 1989.

DOC Position

Although we verified that two of the respondents claimed benefits under section 31 of the IPA on their tax returns filed after the review period, there has been no program-wide change, as described above, with regard to this program. In addition, the Pipes and Tubes determination cited by petitioner was superseded by our more recent decision in Bearings from Singapore (See, DOC Position to Comment 5, above). Since there has been no program-wide change with regard to this program, we are not calculating a separate duty deposit rate.

Comment 7

TTU argues that we should subtract from the benefit calculated for EPC loans costs associated with penalty payments that were later refunded. TTU gives the following reasons in support of this argument: (1) The penalty charges represent an allowable deferral of the EPC interest rate under section 771(6)(B) of the Act because they are mandated by the Government of Thailand, and (2) payment of the penalty charges caused TTU to borrow more money and thereby incur increased borrowing costs and a decreased net interest benefit from the EPC loans. TTU states that it did not provide its actual borrowing costs because the Department does not use company-specific interest rates with regard to short-term financing. It asserts that we should use the benchmark rate to calculate a borrowing cost and notes that, should we wish to use a company-specific rate, we have verified the rates charged TTU on its non-EPC financing.

Petitioner argues that any costs associated with penalties that are charged and subsequently refunded should not be taken into account. Petitioner states that EPC penalties charged and refunded are not an allowable offset under section 771(6)(B) of the Act because "the penalty assessment does not defer the subsidy; it merely assures that the terms of the benefit's availability are met." Petitioner claims that any costs associated with penalty charges are due to failure of the company to comply with the terms of the EPC loan and, as such, represent a secondary economic effect of the EPC program. Citing the CIT's 1987 decision in *Fabricas el Carmen, S.A.* v. *United States*, and our Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Canada, 51 FR 15037, April 22, 1986, petitioner notes that we have consistently refused to consider the secondary economic effects "of participating in a subsidy program as offsets to the program's benefits."

DOC Position

In all previous Thai cases we have treated EPC loans on which penalties were charged and never refunded as not countervailable because the penalty charge raised the interest rate over the benchmark. We have treated EPC loans on which penalties were charged and subsequently refunded no differently than EPC loans on which no penalties were charged. The issue of costs associated with EPC penalty charges that were later refunded has only been raised in the two most recent Thai investigations, Bearings and Cast Iron Pipe Fittings. We did not have to make a decision in these investigations because either the costs were shown to be negligible or respondents failed to provide adequate information.

The issue raises two questions: (1) Whether opportunity costs associated with penalties that were subsequently refunded are an allowable offset under section 771(6)(B) of the Act; and (2) whether the penalty payments themselves are an allowable offset under section 771(6)(B) of the Act.

With regard to the first question, TTU argues that we should take into account the opportunity costs associated with subsequently refunded penalties by subtracting these costs from the benefit. Although TTU has suggested calculations based on the benchmark for deriving costs associated with such penalties, and we have verified alternative financing rates charged TTU, the company has not demonstrated that it actually incurred costs associated with subsequently refunded penalties. According to the legislative history of section 771 of the Act, "[i]n determining the amount of offsets which are permitted, it is expected that the administering authority will only offset amounts which are definitively established by reliable, verified evidence." (S. Rep. No. 249, 96 Cong., 1st Sess. 86 (1979).) Because TTU failed to demonstrate that it has borrowed more than it would have borrowed had it not been charged penalties, we have not accepted TTU's argument.

As to the second question, the EPC penalties are an allowable offset under section 771(6)(B) of the Act because they are mandated by the Government of Thailand and they do in fact delay or negate any cash-flow benefit arising

from the preferential EPC interest rate. Moreover, they are verifiable and measurable. Therefore, we have included this offset in our calculations. *See,* section I.A. of this notice.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, inspecting internal documents and ledgers, tracing information in the responses to source documents, accounting ledgers and financial statements, and collecting additional information that we deemed necessary for making our final determination. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (B-099) of the Main Commerce Building.

Suspension of Liquidation

In accordance with section 706 of the Act, we are directing the U.S. Customs Service to continue suspension of liquidation on all entries of pipe fittings from Thailand which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit for each such entry equal to 2.53 percent ad valorem. This suspension will remain in effect until further notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Dated: January 10, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-1162 Filed 1-17-90; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

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 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 89-262.

Applicant: Brigham and Women's Hospital, Gastroenterology Division, 75 Francis Street, Boston, MA 02115.

Instrument: Rapid Kinetics Instrument (multi-mixing), Model RFS-4.

Manufacturer: Bio Logic Co., France.

Intended Use: The instrument will be used for membrane separation and the study of hepatic microsomes. Both model and rat hepatocyte membranes will be suspended in buffered solutions to study the kinetics of membrane-membrane interactions and molecular transfers between membrane systems.

Application Received by Commissioner of Customs: October 31, 1989.

Docket Number: 89-263.

Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, NY 14853-1301.

Instrument: X-ray Generator.

Manufacturer: Rigaku, Japan.

Intended Use: The instrument will be used in structural studies of electrochemical interfaces employing the techniques of x-ray reflectivity, x-ray standing waves and surface diffraction in such studies. Materials to be studied include metal monolayers on electrodes and Langmuir-Blodgett films. The aim is to correlate structure with reactivity within an electrochemical context.

Application Received by Commissioner of Customs: October 31, 1989.

Docket Number: 89-265.

Applicant: VA Medical Center, 4150 Clement Street, San Francisco, CA 94121.

Instrument: Stopped-Flow Spectrofluorimeter, Model SF-41.

Manufacturer: Hi-Tech Scientific, United Kingdom.

Intended Use: The instrument will be used to study the enzyme breakdown of anesthetics to determine what role particular enzymes play in the biodegradation of the anesthetics. One objective of the investigations is to understand why some anesthetics can damage the liver.

Application Received by Commissioner of Customs: November 1, 1989.

Docket Number: 89-273.

Applicant: Pennsylvania Hospital, Department of Pathology, 8th and Spruce Streets, Philadelphia, PA 19107.

Instrument: Electron Microscope, Model CM-10/PC.

Manufacturer: N.V. Philips, The Netherlands.

Intended Use: The instrument will be primarily used to study the role of viruses in intra-epithelial neoplasia of human tumors. Experiments will include examinations of human cervical epithelial cells for viral nucleic and attempts to localize structural proteins involved in squamous differentation. The objective of the studies is to determine where viral nucleic acid is localized in papilloma virus cervical biopsies. The instrument will also be used in training pathology residents.

Application Received by Commissioner of Customs: November 9, 1989.

Docket Number: 89-274.

Applicant: State University of New York, College at Old Westbury, P.O. Box 210, Old Westbury, NY 11568.

Instrument: Rapid Kinetics Assembly, Model SFA-11.

Manufacturer: Hi-Tech Scientific, United Kingdom.

Intended Use: The instrument will be used to train chemistry majors to use state-of-the-art laboratory instruments in an instrumental analysis course.

Application Received by Commissioner of Customs: November 9, 1989.

Docket Number: 89-275.

Applicant: Charleston Area Medical Center, Inc., P.O. Box 1393, Charleston, WV 25326.

Instrument: Electron Microscope, Model CM-902/G45.

Manufacturer: Carl Zeiss, West Germany.

Intended Use: The instrument will be used for studies of thick sections of cilia in bronchial biopsies and ultra-thin sections of unstained transplant kidney biopsies. Tissues will be labelled with immuno gold particles which have been exposed to specific antibodies in order to locate specific areas of the cells where the antibodies are present.

Application Received by Commissioner of Customs: November 13, 1989.

Docket Number: 89-278.

Applicant: Northwestern Univerity, Center for Quality Engineering and Failure Prevention, 2137 North Sheridan Road, Evanston, IL 60208-3020.

Instrument: Line-Focus Beam Ultrasonic Measuring Equipment, Model AMS-5000.

Manufacturer: Honda Electronics Co., Ltd., Japan.

Intended Use: The instrument will be used for research in the general area of quantitative nondestructive evaluation to determine residual stresses, material

properties and flaws near the surface of solid materials, such as ceramics and thin film materials. A variety of experiments will use acoustic waves to determine near surface properties of materials. The instrument will also be used by graduate students in Nondestructive Evaluation from the Departments of Mechanical Engineering, Civil Engineering and Materials Science for experiments that will be carried out in conjunction with a course in nondestructive evaluation.

Application Received by Commissioner of Customs: November 20, 1989.

Docket Number: 89–281.

Applicant: University of Colorado at Boulder, Institute of Arctic and Alpine Research, Campus Box 450, Boulder, CO 80309–0450.

Instrument: Snow Water Content Measuring Device.

Manufacturer: Ins·tsto Toikka, Finland.

Intended Use: The instrument will be used to measure the liquid water content of snow, in the following experiments: determination of residual (irreducible) water content; dependance of relative permeability on water content; dependence of capillary pressure of water content; and measurement of gradient of water content at transition. The objective of these experiments is to establish the values of several basic parameters necessary to model water flow in snow as a porous-medium process.

Application Received by Commissioner of Customs: November 27, 1989.

Docket Number: 89–282.

Applicant: University of California at Santa Barbara, Marine Science Institute, Santa Barbara, CA 93106.

Instrument: Turbulence Profiler, Model OS 100.

Manufacturer: University of Western Australia, Australia.

Intended Use: The instrument will be used for studies involving profiling turbulence levels in the upper 100m of the ocean to determine how turbulence affects particle size distributions at sea.

Application Received by Commissioner of Customs: November 27, 1989.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–1163 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Issuance of Letters of Authorization; Halliburton Geophysical Services Inc.

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

ACTION: Notice of issuance of letters of authorization.

SUMMARY: Notice is given that on December 22, 1989, the National Marine Fisheries Service issued Letters of Authorization under the authority of section 101(a)(5) of the Marine Mammal Protection Act of 1972 and 50 CFR part 228, subpart B-Taking of Ringed Seals Incidental to On-Ice Seismic Activities, to the following: Halliburton Geophysical Services Inc., 5801 Silverado Way, Anchorage, Alaska 99518 and BP Exploration Inc., 900 East Benson Blvd, P.O. Box 196612, Anchorage, Alaska 99519–6612. These Letters of Authorization are valid for 1990 and are subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR part 228, subpart A and B).

Issuance of these letters is based on a finding that the total taking will have a negligible impact on the ringed seal species or stock, its habitat and its availability for subsistence use.

ADDRESSES: These Letters of Authorization are available for review in the following offices: Office of Protected Resources, National Marine Fisheries Services, 1335 East West Highway, Room 8249, Silver Spring, MD 20910, and Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Protected Species Management Division, NMFS, (301) 427–2322.

Dated: January 11, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 90–1107 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit: Dr. Dan Costa (P227H)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* Dr. Daniel P. Costa, University of California, Institute of Marine Sciences, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA 95060.

2. *Type of Permit:* Scientific Research.

3. To import a total of 5000 milk, 1000 blood, and 300 miscellaneous (e.g., skeletal, organ, lipid, or muscle) samples from the following list of species:

California sea lion (*Zalophus californianus californianus*)
Galapagos sea lion (*Zalophus californianus wallebaeki*)
Australian sea lion (*Neophoca cinerea*)
Southern sea lion (*Otaria flavescens*)
Hooker's sea lion (*Phocartos hookeri*)
Galapagos fur seal (*Artocephalus galapagoensus*)
Guadelupe fur seal (*A. townsendi*)
Antarctic fur seal (*A. gazella*)
South American fur seal (*A. australis*)
New Zealand fur seal (*A. forsteri*)
South African fur seal (*A. pusillus pusillus*)
Australian fur seal (*A. pusillus doriferus*)

5. *Location of Activity:* Australia, New Zealand, Mexico, Argentina, Ecuador, and Chile

6. *Period of Activity:* 3 years

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

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 Highway, 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.

Documents submitted in connection with the above application are available for review by appointment in the following offices:

Office of Protected Resources and Habitat Programs, National Marine

Fisheries Service, 1335 East-West Highway, Room 7324, Silver Spring, Maryland 20910 (301–427–2289); and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213–514–6196).

Dated: January 11, 1990.

Nancy Foster,

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

[FR Doc. 89–1110 Filed 1–17–89; 8:45 am]

BILLING CODE 3519–22–M

Marine Mammals; Modification to Permit No. 473

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification to Permit No. 473.

SUMMARY: Mr. Steven J. Jeffries, Marine Mammal Investigations, Department of Wildlife, 7801 Phillips Road S.W., Tacoma, Washington 98498, requested an extension of Permit No. 473. Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 473 is modified as follows:

Section B.6 is revised to read: 6. This Permit is valid with respect to the taking authorized herein until December 31, 1992.

This modification is effective on December 31, 1989.

Documents submitted in connection with the above Permit and Modifications are available for review in the following offices:

Office of Protected Resources and Habitat Programs, 1335 East West Highway, Silver Spring, Maryland 20910; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115.

Dated: January 2, 1990.

Nancy Foster,

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

[FR Doc. 90–1114 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit; Marineland of Canada (P459)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* Angus Matthews, General Manager, Marineland of Canada, 7657 Portage Rd., Niagara Falls, Ontario.

2. *Type of Permit:* Public Display.

3. *Name and Number of Marine Mammals:* California sea lions (*Zalophus californianus*) 12.

4. *Type of Take:* The applicant proposes to take 12 California sea lions for permanent maintenance in a display facility. The animals will be provided by Sea World from captive born or beached/stranded stocks.

5. *Location and Duration of Activity:* Animals will be provided over a 2-year period.

The arrangements and facilities for transporting and maintaining the marine mammals requested in this application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

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 7234, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

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

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415; and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930.

Dated: January 10, 1990.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 90–1111 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit; Southwest Fisheries Center, NMFS (P77#38)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* Southwest Fisheries Center, NMFS, P.O. Box 271, La Jolla, California 92038.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Animals:* Northern elephant seal (*Mirounga angustirostris*) 900.

4. *Type of Take:* Up to 300 pups will be taken by marking/tagging each year. An unspecified number will be disturbed during the census, and tagging operations.

5. *Location of Activity:* California, San Clemente, San Miguel, San Nicolas, and Santa Barbara Islands in the Southern California Bight.

6. *Period of Activity:* 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

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 Highway, 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.

Documents submitted in connection with the above application are available for review by appointment in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West

Highway, Room 7324, Silver Spring, Maryland 20910 (301/427–2289); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514–6196).

Dated: January 11, 1990.

Nancy Foster,

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

[FR Doc. 90–1113 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Application for Permit; Southwest Fisheries Center, NMFS (P77#39)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* Southwest Fisheries Center, NMFS, P.O. Box 271, La Jolla, California 92038.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:* An unspecified number of northern elephant seals (*Mirounga angustirostris*), California sea lions (*Zalophus californianus*), and harbor seals (*Phoca vitulina*) will be disturbed during aerial photographic census, during placement and recovery of photo-calibration markers, and while measuring natural objects. All age and sex classes may be disturbed.

4. *Location of Activity:* San Clemente, Santa Barbara, San Nicolas, and San Miguel Islands in the Southern California Bight, and islands off Baja California, Mexico.

5. *Period of Activity:* 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

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 Highway, 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.

Documents submitted in connection with the above application are available for review by appointment in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7324, Silver Spring, Maryland 20910 (301/427–2289); and

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731 (213/514–6196).

Dated: January 11, 1990.

Nancy Foster,

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

[FR Doc. 90–1112 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Brazil

January 11, 1990.

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

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

SUMMARY: January 19, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quotas re-opening, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being increased, variously, for swing, carryover, carryforward and recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 13216, published on March 31, 1989.

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

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 11, 1990.

Commissioner of Customs

Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 27, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced of manufactured in Brazil and exported during the twelve-month period which began April 1, 1989 and extends through March 31, 1990.

Effective on January 19, 1990, the directive of March 27, 1989 is amended to increase the limits for the following categories, as provided under the provisions of the current bilateral textile agreement between the Governments of the United States and Brazil:

Category—Sublevels in the Group	Adjusted Twelve-Month Limit [1]
225	7,258,756 square meters.
300/301	5,385,049 kilograms.
334/335	105,894 dozen.
338/339/638/639	1,068,480 dozen.
347/348	748,678 dozen.
350	100,912 dozen.
369–D [2]	364,205 kilograms.
410/624	7,090,360 square meters of which not more than 2,449,017 square meters shall be in Category 410.
607	3,232,380 kilograms.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1989.

[2] In Category 369–D, only HTS numbes 6302.60.0010, 6302.91.0005 and 6302.91.0045.

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

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–1132 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of Amendment to Visa Requirements, and Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

January 11, 1990.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year and amending visa requirements.

EFFECTIVE DATE: January 19, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For more information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–8041. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

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

During recent negotiations between the Governments of the United States and the Republic of Korea, agreement was reached, effected by a Memorandum of Understanding (MOU) dated December 28, 1989 to extend their current bilateral textile agreement through December 31, 1991.

The two governments also agreed to further amend the visa arrangement to include part and merged categories for certain cotton and man-made fiber textiles and textile products, produced or manufactured in Korea.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 37 FR 10605, 47 FR 50940, 52 FR 24506 and 53 FR 52464.

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

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 11, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Textile Agreement of November 21 and December 4, 1986, as amended and extended, and the Memorandum of Understanding dated December 28, 1989, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 19, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following restraint limits:

Category	Twelve-Month Restraint Limit [1]
Group I	
200, 201, 218–220, 222–229, 300–326, 360–363, 369–0,[2] 400, 410, 414, 464–469, 600–607, 611–622, 624–629, 665–669 and 670–0,[3] as a group.	377,000,000 square meters equivalent.
Sublevels within Group I:	
200	370,000 kilograms.
201	1,300,000 kilograms.
218	7,500,000 square meters.
219	7,000,000 square meters.
300/301	2,515,860 kilograms.
313	41,000,000 square meters.
314	22,859,802 square meters.
315	16,000,000 square meters.
317/326	15,236,665 square meters.
363	900,000 numbers.
410	3,250,000 square meters.
604	298,720 kilograms.
607	900,000 kilograms.
611	3,000,000 square meters.
613/614	5,000,000 square meters.
619/620	86,500,000 square meters.
624	7,500,000 square meters.
625–629	12,800,000 square meters.
669–P [4]	1,887,126 kilograms.
Group II:	
237m 239m 330–354m 359 431–448, 459, 630–654 and 659, as a group.	559,000,000 square meters equivalent.
Sublevels within Group II:	
237	49,754 dozen.
333/334/335	225,000 dozen of which not more than 115,000 dozen shall be in Category 335.
336	47,549 dozen.
338/339	1,000,000 dozen.
340	520,000 dozen of which not more than 270,000 dozen shall be in Category 340–D.[5]
341	160,000 dozen.
342/642	166,781 dozen.
345	97,148 dozen.
347/348	370,000 dozen.
350	13,829 dozen.
351	121,576 dozen.
352	147,840 dozen.
353/354/653/654	236,557 dozen.
359–H [6]	2,129,773 kilograms.
433	13,328 dozen.
434	6,836 dozen.
435	32,236 dozen.
436	13,646 dozen.
438	54,712 dozen.
440	190,000 dozen.
442	46,117 dozen.
443	322,056 numbers.
444	50,251 numbers.
445/446	50,000 dozen.
447	85,304 dozen.
448	32,443 dozen.
459–W [7]	87,761 kilograms.
631	249,624 dozen pairs.
632	1,322,364 dozen pairs.
633/634/635	1,322,769 dozen of which not more than 150,000 dozen shall be in Category 633 and not more than 559,000 dozen shall be in Category 635.
636	237,736 dozen.
638/639	5,150,000 dozen.
640–D [8]	3,000,000 dozen.
640–O [9]	2,500,000 dozen.
641	998,855 dozen of which not more than 37,730 dozen shall be in Category 641–Y.[10]
643	740,000 numbers.
644	1,113,298 numbers.
645/646	3,436,466 dozen.
647/648	1,215,166 dozen.
650	20,236 dozen.
659–H [11]	1,173,698 kilograms.
659–S [12]	148,827 kilograms.
Group III:	
831–844 and 847–859, as a group.	18,066,802 square meters equivalent.
Sublevel within Group III	
835	27,544 dozen.
Group IV:	
845	2,1315,056 dozen.
846	811,512 dozen.
Group VI:	
369–L/760–L/870 [13]	58,670,271 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] In Category 369–O, all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000 in Category 369–L.

[3] In Category 670–O, all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 in Category 670–L.

[4] In Category 669–P, only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[5] In Category 340–D, only HTS numbers 6205.20.2015, 6205.20.2020 6205.20.2025 and 6205.20.2030.

[6] In Category 359–H, only HTS numbers 6505.90.1530 and 6505.90.2060.

[7] In Category 459–W, only HTS number 6505.90.4060.

[8] In Category 640–D, only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.

[9] In Category 640–O, all HTS numbers except 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030 in Category 640–D.

[10] In Category 641–Y, only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[11] In Category 659–H, only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060,. 6505.90.6080, 6505.90.7060 and 6505.90.8060.

[12] In Category 659–S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[13] Category 870; in Category 369–L, only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000; and in Catgegory 670–L, only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The 1990 levels are subject to adjustment according to the provisions of the Bilateral Textile Agreement of November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea.

Effective on January 19, 1990 you are directed to amended the visa requirements established in the directive of May 19, 1972, November 4, 1982 and December 22, 1988, as amended, to include the following merged and part-category designations for goods produced or manufactured in Korea and exported from Korea on and after January 1, 1990:

MERGED AND PART-CATEGORIES

Category	HTS number
333/334/335 342/642 360–L/670–L/870.	Category 870; in Category 369–L, only HTS numbers 4202.12.4000, 4202–12–8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000; and in Category 670–L, only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.
340	All HTS numbers except those in Category 340–D.
340–D	Only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.
640–D	Only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.
640–O	Only HTS numbers 6203.23.0080, 6203.29.2050, 6205.30.1000, 6205.30.2050, 6205.30.2060, 6205.30.2070, 6205.30.2080 and 6211.33.0040.
641	All HTS numbers except those in Category 641–Y.
659–O	All HTS numbers except those in Categories 659–H and 659–S.
669–O	All HTS numbers except those in Category 669–P.

Also effective on January , 1990 for goods produced or manufactured in Korea and exported from Korea on and after January 1, 1990, Categories 433/434 will no longer be merged and the following part-category designations will no longer be valid. Part Categories 229–F and 229–O will require a visa for Category 229.

Category: 229–F, 229–O, 340–Y, 340–O, 640–DY, 640–DO, 640–OY, 640–OO, 641–O, 659–C, 669–C, 669–T.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa or visa waiver must be obtained.

Category	Conversion factor
333/334/335	33.75
342/642	14.9
369–L/670–L/870	3.8
633/634/635	34.1
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–1131 Filed 1–17–90; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Open meeting

AGENCY: Under Secretary of Defense (Acquisition), DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92–463), the Office of the Under Secretary of Defense for Acquisition announces a forthcoming planning meeting for a Defense Manufacturing Board project on Foreign Ownership and Control.

DATE AND TIME: 6 Feb 90, 1300–1600.

ADDRESS: Institute for Defense Analysis (Softech Building, 4th Floor) 2000 N. Beauregard, Alexandria, VA.

The agenda for the meeting concerns issues of foreign direct investment.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Fitzpatrick of the DMB Secretariat, (202) 697–09957.

Dated: January 11, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89–1080 Filed 1–17–89; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Availability of Draft Environmental Impact Statement for Development of Armed Forces Recreation Center—Fort DeRussy, Waikiki, HI

AGENCY: Department of the Army, DOD.

Background: The Army proponent for the proposed action is the U.S. Army Community and Family Support Center, Alexandria, VA, which directs the operation of the Hale Koa Hotel. Full authority and responsibility for the overall development of Fort DeRussy lies with Headquarters, U.S. Army Western Command.

At the direction of Congress, the Secretary of the Army prepared, in March 1988, a Master Plan for the Armed Forces Recreation Center at Fort DeRussy. The Plan recommended the relocation of non-headquarters type U.S. Army Reserve units to Fort Shafter and the construction of new hotel and

recreation facilities at Fort DeRussy. Studies showed a large, unmet demand for hotel accommodations in addition to the existing Hale Koa Hotel. To enhance the morale and recreation needs of the active and retired military community and to maximize recreational open space for shared use by the military and civilian communities, the Plan recommended a Proposed Action.

The Army published a Notice of Intent to prepare a Draft Environmental Impact Statement in the **Federal Register** on January 23, 1989. Scoping meetings were held for governmental agencies on February 16, 1989, and for the public on February 22, 1989. Intensive scoping was also conducted during a Social Impact Assessment Study, prepared under contract for the Army.

ACTION: The Department of the Army announces that the Draft Environmental Impact Statement (EIS) for Development of the Armed Forces Recreation Center—Fort DeRussy, Waikiki, Hawaii, is available for public review and comment.

The proposed action would construct a 400-room hotel tower to augment the existing Hale Koa Hotel; construct two, 1200- and 1400-stall, parking structures; relocate and replace utilities; and provide extensive landscaping and selected recreational facilities. Kalia Road, which crosses the Army post, would be realigned and widened.

To provide space for construction of the new hotel tower and other facilities, some buildings now used by U.S. Army Reserve units will be demolished. The impact of these buildings being demolished and the U.S. Army Reserve Units leaving Fort DeRussy are addressed in this Draft EIS. Construction of the new U.S. Army Reserve facilities at Fort Shafter are addressed in a separate Environmental Assessment.

In addition to the proposed action, three primary alternatives are assessed: Alternative A, No action; Alternative B, Kalia Road alignment alternatives, similar to the proposed action except that in Option B1, Kalia Road is realigned but remains two lanes; Option B2, Kalia Road is realigned but toward the existing intersection; Option B3, Kalia Road is eliminated between Hale Koa and Saratoga Road; and Alternative C, a series of low rise hotel buildings along a realigned Kalia Road.

The selection of a proposed action in the Draft EIS does not constitute a final decision. The Final EIS, as well as comments submitted on the Draft EIS, will be used by the Army in reaching a final decision and developing a final array of measures to avoid, reduce or mitigate adverse impacts. The Record of Decision will be approved at least 30 days after publication of the Final EIS to allow for public review and comment.

Given the "turn-key" design-construction contracting process, supplemental NEPA documents may be prepared after contract award to address any significant changes from the proposed action or significant changes in environmental impacts.

Comments on the Draft EIS should be submitted to: Mr. David G. Sox, EIS Technical Manager (CEPOD–ED–MI), U.S. Army Engineer District, Building 230, Fort Shafter, Honolulu, HI 96858–5440.

These comments can be received no later than March 5, 1990, to be considered in the Final EIS. Copies of the docment may be obtained by writing to the above address or by calling (808) 438–5030/1776.

A Notice of Availability of the Final Environmental Impact Statement will also be published by the U.S. Environmental Protection Agency (EPA) in the **Federal Register** and by the local Army command in newspapers or other publicly circulated newsletters in the State of Hawaii.

Dated: January 12, 1990.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (IL&E).

[FR Doc. 90–1136 Filed 1–17–90; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Construction Productivity Advancement Research (CPAR) Program

AGENCY: Corps of Engineers, Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The purpose of this notice is to inform potential applicants of a program of cost-shared research, development and technology transfer (R&D) projects between the U.S. Army Corps of Engineers (Corps) and the U.S. construction industry. The purpose of the Construction Productivity Advancement Research (CPAR) Program is to assist the U.S. construction industry in enhancing its productivity and domestic and international competitive position through the development and reduction-to-practice of advanced technologies, materials and construction management systems.

DATES: Effective date is January 16, 1990. Proposals will be accepted until March 16, 1990.

ADDRESS: Proposals for the Fiscal Year 1990 CPAR Program should be submitted to the Corps laboratories identified in the *CPAR Guidelines for Participation*, dated January 1990. Copies of the *Guidelines* may be obtained by writing to: HQUSACE, Attn: CERD–C; 20 Massachusetts Avenue, NW; Washington, DC 20314–1000, or by calling (202) 272–0257.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse A. Pfeiffer, Jr., P.E.; HQUSACE, CERD–C; 20 Massachusetts Avenue, NW; Washington, DC 20314–1000, or call (202) 272–1846 or 272–0257.

SUPPLEMENTARY INFORMATION: CPAR is a cost-shared partnership between the Corps, the U.S. construction industry (contractors, equipment and material suppliers, architects, engineers, financial organizations), academic institutions, non-profit organizations and other groups who are interested in enhancing construction productivity and competitiveness. CPAR was created to help the construction industry regain its competitive edge nationally and internationally by building on the foundation of the existing Corps Construction R&D Program and laboratory resources through an expansion and leveraging effect that cost-shared partnerships provide. The objective of CPAR is to facilitate research, development and application of advanced technologies through cooperative R&D, field demonstration, licensing agreements and other means of technology transfer and reduction-to-practice. Advancing the productivity and competitiveness of the U.S. construction industry will provide savings in construction costs for the Government and U.S. industries, and result in a boost to the U.S. economy in general. R&D efforts conducted under CPAR will be based on topics suggested by the construction industry which can be addressed effectively by a partnership and which will benefit both the Corps and the construction industry. Participation in CPAR is open to any U.S. private firm, including corporations, partnerships, limited partnerships and industrial development organizations; public and private foundation; academic institutions; non-profit organizations; units of State and local governments; and others who have an interest in and the capability to address CPAR objectives. As provided by law, special consideration will be given to small business firms and consortia involving small business firms. Preference will be

given to business units located in the United States that agree to substantially manufacture and apply the products in the United States. Consideration will be given to a potential partner that is subject to the control of a foreign company or government if that foreign government permits the U.S. agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

The cost of each CPAR project will be shared by the Corps and the construction industry partner(s). Specific cost-sharing terms will be negotiated for each proposed project prior to submission of the proposal to HQUSACE for approval. "In-kind" services and/or use of facilities may be considered in arriving at a cost-sharing agreement. As required by law, not more than fifty (50) percent of the total cost of a CPAR project will be provided by the Corps and not less than five (5) percent of the construction industry partner's share of the cost must be contributed in cash. The Corps may contribute personnel, services, facilities, property, patent licenses (or assignment or options to the patent license) and money. The construction industry partner(s) may contribute personnel, services, facilities, property and money. No costs previously incurred by the Corps or the construction industry partner(s) on the subject matter of the CPAR project may be recovered in the cost-sharing agreement.

An agreement specific to each project will be negotiated between the Corps and the industry partner(s). The agreement will contain, in addition to the cost-sharing terms, all other conditions and responsibilities necessary to complete the project, including rights to inventions. In addition to having the authority to grant the partner(s) licenses to Government-owned or jointly-developed inventions, the Corps has authority to waive, in whole or in part, the right of ownership to any invention made by the partner(s) or employees of the partner(s) during the project, subject to reservation by the Government of a non-exclusive, irrevocable, paid-up license to practice the invention or have the invention practiced by or on behalf of the Government.

CPAR is designed to promote and assist in the advancement of ideas and technology which will have a direct, positive impact on construction productivity. CPAR is focused on four major areas: design improvement, improved construction site productivity, advanced materials, and technology transfer innovation. However, any idea for improving construction productivity will be considered. Ideas that cannot define a direct link to the advancement of construction productivity will not be accepted into the CPAR Program.

R&D subjects of interest include, but are not limited to:

Design Improvement

- Total Integrated Design Systems.
- Computer-Aided Planning and Engineering tools.
- Computer-Aided Design Systems.
- Advanced Site Investigation Technology.
- Knowledge-Based Cost Systems.
- Expert Systems/Artificial Intelligence.
- Materials Selection Systems.
- Advanced Technology Selection Systems.

Improved Construction Site Productivity

- Computer-Aided Construction Management Systems.
- Automated Construction/Robotics.
- Automated Inspection and Quality Control.
- Advanced Excavating and Tunneling.
- Marine Construction.
- Cold Weather Construction.
- Construction Management.
- Expert Systems.
- Materials Handling.

Advanced Materials.

- High-Performance Cementitious Materials.
- Structural Polymers.
- Advanced Ceramics.
- Metal Matrix Composites.
- Coatings.
- Geomodifiers/Geotextiles.
- Adhesives/Fasterners.
- Advanced Fabrication Systems.

Technology Transfer Innovation

- User-Based Technology Transfer Processes.
- Technical Support Services.
- Information Exchange Systems.

Proposal Review Process

Proposals received by the Corps laboratories which meet CPAR criteria may be discussed and further developed, as necessary, by the laboratory and Construction Industry partner(s). The following criteria will be used to evaluate the proposals.

1. Potential Impact on U.S. Construction Industry Productivity

High—Technological advancement which would supplant current technology and will have strong impact on U.S. construction industry productivity.

Med—Technological advancement which significantly improves current technology and enhances U.S. construction industry productivity.

Low—Technological advancement which would upgrade current standard technology with limited but beneficial impact on U.S. construction industry productivity.

2. Potential Impact On Corps Of Engineers Mission

High—Technological advancement which would supplant current Corps technology and will have strong impact on the Corps mission.

Med—Technological advancement which significantly improves current Corps technology and enhances the Corps mission.

Low—Technological advancement which would upgrade current standard Corps technology with limited but beneficial impact on the Corps mission.

3. Ease of Adoption

High—Technology provides productivity improvement with minimal additional equipment, training, materials and operating costs.

Med—Technology provides productivity improvements, but at the expense of some additional equipment, material, and training costs.

Low—Technology provides productivity improvement, but with substantially higher costs of training, materials, and equipment.

4. Anticipated Chance of Success of R & D Effort

High—Little risk, such as innovative application of current research.

Med—Some risk, chance of success similar to exploratory development.

Low—High risk, chance of success similar to basic research.

5. Project Duration

High—Project can be completed in 2 years or less.

Med—Project can be completed in 4 years or less.

Low—Project will require more than 4 years to complete.

6. R & D Investment

High—Project will obligate the Corps to spend less than $300,000 in any funding year.

Med—Project will obligate the Corps to spend between $300,000 and $500,000 in any funding year.

Low—Project will obligate the Corps to spend more than $500,000 in any funding year.

7. Technology Transfer Potential

High—Proposal provides a significant and effective plan which will facilitate wide-scale Federal and non-Federal exploitation of the new technology.

Med—Proposal provides a plan that envisions some effective Federal and non-Federal exploitation of the new technology.

Low—Proposal provides a plan that envisions limited, but beneficial Federal

and non-Federal exploitation of the new technology.

After discussions between the laboratory and the construction industry partner(s), a proposal Executive Summary will be prepared by the laboratory which will contain all expected costs and cost-sharing arrangements, time needed to complete, specific end product(s), proposed technology transfer/marketing plan, and expected benefits for the Government and the construction industry.

Corps laboratories will submit their recommended Executive Summaries to HQUSACE for consideration under the CPAR Program. An initial screening will be made to ensure that all proposed projects are fully cost-shared and appropriate to the CPAR Program. The CPAR Executive Summaries will be reviewed and recommendations made by the CPAR Executive Committee in HQUSACE. The CPAR Executive Committee is composed of senior-level HQUSACE managers. The Director of Civil Works, HQUSACE, will act on the recommendations of the CPAR Executive Committee in approving the program.

All information (data) furnished by the potential construction industry partner(s) will be used for evaluation purposes only and will be safeguarded from unauthorized disclosure in accordance with applicable laws. Protection of information during and after completion of a CPAR project will be defined and agreed to in the project agreement. Classified information (data) will be handled in accordance with Army regulations.

Additional Requirements

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment. Except where declared by law or approved by the head of agency, no award of Federal funds shall be made to an applicant who is delinquent on a Federal debt until the delinquent account is made current or satisfactory arrangements are made between affected agencies and the debtor.

Classification

This document is not a major rule requiring a regulatory analysis under Executive Order 12291 because it will not have an annual impact on the economy of $100 million or more, nor will it result in a major increase in costs or prices for any group, nor have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is not a major federal action requiring an environmental assessment under the National Environment Policy Act. The CPAR Program does not involve the mandatory payment of any matching funds from a State or local government, and does not affect directly any State or local government. Accordingly, the Corps determined that Executive Order 12372 is not applicable to CPAR. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. CPAR is being carried out under the authority of Section 7, Water Resources Development Act of 1988 (Pub. L. 100–676).

Dated: January 9, 1990.

Frank R. Finch,

Colonel, General Staff, Executive, OASA(CW).

[FR Doc. 90–1140 Filed 1–17–90; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Public Meeting of the National Council on Vocational Education

AGENCY: National Council on Vocational Education, ED.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming Subcommittee meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

Date & Time: February 4, 1990, 5:30 p.m. to 6:30 p.m.

Date & Time: February 5, 1990, 9:30 a.m. to 3:30 p.m.

ADDRESS: Sheration City Squire, 790 7th Avenue & 52nd Street, New York, City

ROOM: Colonial.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 104 of the Voctional Education Amendments of 1968, Pub. L. 90–576.

The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education progams proposed with assistance under this title;

(B) Review the administration and operation of vocational education program under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

AGENDA: The proposed agenda will include: discussions of the Reauthorization of the Carl D. Perkins Act, the National Awareness Campaign, Occupational Competencies, Council Reports and New Initiatives.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 330 C Street, SW., MES—Suite 4060, Washington, DC 20202–7580, (202) 732–1884.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9:00 a.m. to 4:30 p.m.

Signed at Washington, DC January 11, 1990.

Joyce Winterton,

Executive Director.

[FR Doc. 90–1157 Filed 1–17–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP90–469–000, et al.]

Texas Gas Transmission Corp., et al., Natural Gas Certificate Filings

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

1. Texas Gas Transmission Corp.

[Docket No. CP90–469–000]

January 8, 1990.

Take notice that on January 3, 1990, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90–469–000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to provide an interruptible transportation service for TXG Gas Marketing Company (TXG) under its blanket certificate issued in Docket No.

CP88–686–000 pursuant to section 7 of the NGA, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas states that the maximum daily, average daily and annual quantities that it would transport for TXG would be 200,000 MMBtu equivalent of natural gas, 100,000 MMBtu equivalent of natural gas and 36,500,000 MMBtu equivalent of natural gas, respectively. Texas Gas indicates that in a filing made with the Commission in Docket No. ST90–993, it reported that transportation service for TXG commenced on December 1, 1989, under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 22, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Iroquois Gas Transmission System, L.P.

[Docket No. CP89–634–001]

January 8, 1990.

Take notice that on December 29, 1989, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Tower, Corporate Drive, Shelton, Connecticut 06484, filed in Docket No. CP89–634–001 an amendment to its pending application in said docket for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authorization to construct and operate an new pipeline system and to transport natural gas for customers in New Jersey, New York, and New England, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Specifically, Iroquois states that it has terminated Precedent Agreements with five cogeneration projects (Long Lake Energy Corp.; Lee Mass Cogeneration, O'Brien Cogeneration, Inc.; First Energy Associates; and L&J Energy Systems, Inc.) representing 74.1 MMcfd of Iroquois' transportation capacity. Also, Iroquois intends to transport an additional 118 MMCfd on behalf of two existing Iroquois shippers, Boston Gas Company (a 35 MMcfd increase, from 17.1 MMcfd to 52.1 MMcfd) and Granite State Gas Transmission, Inc. (a 23 MMcfd increase, from 12 MMcfd to 35 MMcfd), and a new shipper, New England Power Company (60 MMcfd). In addition, two cogeneration shippers, Pawtucket Power Associates and JMC Selkirk Cogeneration, changed their nominations from 12.7 MMcfd to 12.8 MMcfd and from 23.0 MMcfd to 21.0 MMcfd, respectively. The net result of the changes is an increase of 42 MMcfd in the maximum transportation volumes to be hauled on the Iroquois system, from 533.9 MMcfd to 575.9 MMcfd. According to Iroquois, the net increase will not require any additional facilities. The only two changes in facilities will be the deletion of the Lowville, NY delivery point (originally intended for L&J Energy Systems, Inc.) and the redesignation of a delivery point for Yankee Gas Services Company from Huntington, CT to Shelton, CT.

Iroquois' application states that there have been substantive changes to the Iroquois partnership. First, the Power Authority of the State of New York (NYPA) has exercised its option to acquire a 2% interest in Iroquois. In conjunction with this, Iroquois has converted from a general partnership under the laws of the State of New York to a Delaware limited partnership in order to facilitate NYPA's participation in the Iroquois project. Second, the partnership agreement was amended to prohibit any partner from controlling more than one voting bloc.[1] The final major change to the partnership agreement is the formation of a Delaware corporation, Iroquois Gas Transmission System, Inc. (IGTS), whose stock is held solely by the Iroquois partnership. The purpose of IGTS is to exercise Iroquois' right of eminent domain, on behalf of the Iroquois partnership, in Connecticut state courts.[2]

Iroquois maintains that there have been some changes in its rates and rate design since the original application was filed:

(1) Iroquois now proposes an interruptible rate design consisting of a 100% load factor maximum rate—43.4569 cents per Dt for Zone 1 and 77.8327 cents per Dt for Zone 2—and a minimum rate of one cent per Dt for both zones.

(2) Iroquois proposes a rate for backhaul and exchanges consisting of a demand charge (a maximum of $9.4838 per Dt for Zone 1 and $16.9857 for Zone 2 and a minimum for both zones of $0) and a commodity charge that is the applicable firm or interruptible commodity rate that would be charged for forward hauls.

(3) Iroquois avers that it will now seek a 14% rate of return versus a 15% rate of return proposed in the original filing and an 87% design load factor versus an 80% design load factor proposed in the original filing.

(4) Iroquois intends to file a section 4 rate case within three years of the initiation of commercial operation and a second section 4 rate case within three years of the date of the first rate case. This offer is conditioned upon the understanding that an application to expand facilities with associated rate adjustments would qualify as one of the Section 4 rate cases, according to Iroquois.

(5) Iroquois is withdrawing its request for the approval of the pregranted abandonment of its proposed services at the end of its current contractual obligation.

(6) Iroquois will permit capacity brokering on its system consistent with the effective Commission policies on capacity brokering.

Iroquois emphasizes that these rate concessions are in the nature of a settlement and that any substantial modification by the Commission of the rates, rate structure, and tariff provisions would allow Iroquois to withdraw any or all of these rate modifications.

Iroquois indicates that the overall cost of the project has increased to $582.6 million from $523.7 million in the original filing. These increases are due to Iroquois' commitment to a $10 million Land Preservation and Enhancement Program, special cathodic protection for pipe to laid in high voltage utility right-of-way, hauling of rock and extraneous material away from the right-of-way, additional environmental inspection costs, updated easement and right-of-way costs, and other project development costs which, Iroquois alleges, were inadvertently omitted in the original application. According to Iroquois, the rate and cost changes will have an effect on Iroquois' initial rates. For illustrative purposes, Iroquois contends that the 100% load factor rates in Zone 1 will be 5% higher ($0.434 per Dt versus $0.412 per Dt) and essentially unchanged in Zone 2 ($0.778 per Dt versus $0.776 per Dt). The primary reason for the greater increase in the Zone 1 rate is an increase in volumes being transported in Zone 1 and a decrease in transported volumes in Zone 2, resulting in a shift in costs to Zone 1 for rate purposes.

Comment date: January 29, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

[1] The Iroquois partners are organized into three voting blocs. The Canadian bloc is comprised of the Canadian partners and represents a 35% interest in Iroquois. The LDC bloc consists of the five LDCs and the NYPA and represents a 33% interest in Iroquois. The third bloc is the U.S. interstate bloc consisting of four U.S. interestate pipelines that have a 32% interest in Iroquois.

[2] Connecticut state law specifically grants pipeline "corporations" with certificates issued by the Commission the right to use state courts to exercise eminent domain authority.

3. Northwest Pipeline Corp.

[Docket No. CP90-459-000

January 9, 1990.

Take notice that on December 29, 1989, Northwest Pipeline Corporation (Northwest) filed in Docket No. CP90-459-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP86-578-000 for Inland Empire Paper Company (Inland), an end user, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest indicates that services commenced November 11, 1989, as reported in Docket No. ST90-1046-000 and estimates the volumes transported to be 1,900 MMBtu per day on a peak day, 1,600 MMBtu on an average day and approximately 600,000 MMBtu on an annual basis for Inland.

Northwest states that no new facilities are to be constructed, as it will transport the gas through its system from any mainline transportation receipt point on its system to any mainline transportation delivery point on its system.

Comment date: February 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. Williams Natural Gas Co.

[Docket No. CP90-478-000]

January 9, 1990.

Take notice that on January 4, 1990, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-478-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP86-631-000 for MidCon Marketing Corp. (MidCon), all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG indicates that service commenced November 4, 1989, as reported in Docket No. ST90-1056-000 and estimates the volumes transported for MidCon to be 150 Dth of natural gas per day on peak and average days and 54,750 Dth of natural gas on an annual basis. WNG explains that the gas would be transported from various receipt points in Kansas and Oklahoma to various delivery points on its pipeline system located in Kansas.

WNG states that no new facilities are to be constructed.

Comment date: February 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90-496-000]

January 9, 1990.

Take notice that on January 8, 1990, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-496-000, a request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to provide a transportation service for Owens-Corning Fiberglass Corporation (Owens-Corning) under Transco's blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open a public inspection.

Transco proposes to transport, on a firm basis, up to 6,000 Mcf of natural gas per day for Owens-Corning pursuant to a transportation agreement dated November 1, 1989, between Transco and Owens-Corning. Transco would receive natural gas at various existing receipt points in Texas, Georgia, Mississippi and Louisiana and redeliver equivalent volumes of gas, less fuel and company used gas, at various existing delivery points in South Carolina and Louisiana.

Transco further states that the estimated average daily and annual quantities would be 6,000 Mcf and 2,190,000 Mcf respectively. Service under § 284.223(a) commenced November 1, 1989, as reported in Docket No. ST90-542-000, it is stated.

Comment date: February 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipe Line Company

[Docket No. CP90-492-000]

January 9, 1990.

Take notice that on January 5, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-492-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of SUN OPERATING LIMITED PARTNERSHIP (SUN), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to transport, on an interruptible basis, up to a maximum of 61,800 MMBtu of natural gas per day for SUN from receipt points located in Louisiana and Texas to delivery points located in Louisiana, Florida, Alabama and Mississippi. United anticipates transporting an annual volume of 22,557,000 MMBtu.

United States that the transportation of natural gas for SUN commenced November 6, 1989, as reported in Docket No. ST90-1197-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to United in Docket No. CP88-6-000.

Comment date: February 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

ANR Pipeline Company

[Docket No. CP78-545-007, CP79-129-002, CP80-164-004]

7. ANR Storage Company

[Docket No. CP78-432-010]

Great Lakes Gas Transmission Company

[Docket No. CP78-527-005]

Michigan Consolidated Gas Company Interstate Storage Division

[Docket No. CP78-433-005]

January 9, 1990

Take notice that on January 8, 1990, ANR Pipeline Company (ANRPL), 500 Renaissance Center, Detroit, Michigan 48243, ANR Storage Company (ANR Storage), also located at 500 Renaissance Center, Detroit, Michigan 48243, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, and Michigan Consolidated Gas Company, Interstate Storage Division, 500 Griswold Street, Detroit, Michigan 48226, (collectively referred to as Petitioners) filed in Docket Nos. CP78-545-007, CP79-129-002, CP80-164-004, CP78-432-010, CP78-527-005, and CP78-433-005, respectively, as referred to above, a joint application pursuant to sections 7(c) and (b) of the Natural Gas Act, for authority to amend various certificates of public convenience issued in Docket No. CP78-432, *et al.*, 8 FERC ¶ 61,059 (1979) and abandoning and clarifying various services, all as more fully set forth in the joint petition to amend which is on file with the Commission and open to public inspection.

The Petitioners allege that they request authority to: (1) Abandon the transportation services provided by ANRPL to United Gas Pipeline Company (United) under ANRPL's Rate Schedules X-71, X-91, and X-124 authorized by the Commission in Docket Nos. CP79-129, 7 FERC ¶61,009, (1979), CP78-545, 8 FERC

¶61,059 (1979), and CP80–165, 11 FERC ¶61,049 (1980); (2) approve the abandonment of the storage services provide by ANR Storage to United under ANR Storage's Rate Schedule X–1; (3) amend the certificate issued to ANR Storage in Docket No. CP78–432 to permit Untied to assign to ANRPL the the storage agreement between ANR Storage and United and thereafter to provide service to ANRPL pursuant to the terms and conditions of Rate Schedule X–1; (4) clarifying the certificate issued to Great Lakes in Docket No. CP78–527, 8 FERC ¶61,059 (1979), to provide for the transportation by ANRPL of gas for its own account under Great Lakes Rate Schedule T–8 to replace volumes previously shipped on behalf of United using ANRPL's capacity on Great Lakes; (5) approve the abandonment of the transportation services provided by Mich Con to United under Mich Con's Rate Schedule X–23 authorized by the Commission in Docket No. CP78–433, 8 FERC ¶61,059 (1979); and (6) amend the certificate issued to Mich Con in Docket No. CP78–433, to permit United to assign to ANRPL the transportation agreement between Mich Con and United and thereafter provide service to ANRPL pursuant to the terms and provisions of Rate Schedule X–23. ANRPL, ANR Storage, and Mich Con allege that United consent to the proposed abandoment of service.

It is alleged that United's usage of the certificate storage and transportation services have declined in recent years. It is further alleged that United has experienced certain financial difficulties which led United to file an application with the Commission on September 18, 1989, in Docket No. CP89–2114–000 requesting authorization to restructure its operations, and to abandon ANR Storage's storage service and related transportation transactions which were certificated at 8 FERC ¶61,059 (1979). It is asserted that United has also requested authority to abandon the offshore transportation services under ANRPL's Rate Schedules X–71 and X–124. In its application, United has alleged that the storage service provided by ANR Storage and the related transportation services, plus the offshore services, are no longer necessary to meet its current or projected needs. In addition, United argues that to ameliorate its current financial crisis, United needs relief from the costs associated with the storage and transportation services. In this regard, United unilaterally has ceased paying ANR Storage, ANRPL, and Mich Con under the storage and transportation agreements.

The Petitioners contend that ANR Storage and ANRPL have reached an agreement with United regarding the disposition of United's storage and related transportation services. Under the agreement, ANRPL would take an assignment of the storage services provided to United by ANR Storage under Rate Schedule X–1. ANRPL currently plans to use the storage capacity assigned to it by United to store its system supply gas. ANRPL has also agreed to assume United's obligations under Mich Con's Rate Schedule X–23 , and top abandon service, effective January 12, 1990, to United under ANRPL's Rate Schedules X–71, X–91, and X–124. It is stated that Great Lakes' Rate Schedule T–8 is a service agreement between ANRPL and Great Lakes, and no change is required in this rate schedule to reflect cessation of service by ANRPL to United. The Petitioners contend that clarification of the certificate issued to Great Lakes is requested to enable ANRPL to use its existing capacity on Great Lakes, previously used, in part, by ANRPL to fulfill its obligations to United, to move gas for its own account to ANR Storage's storage fields. It is alleged that once the authorizations sought by this application are granted, United would no longer be obligated under its storage agreement with ANR Storage or under the transportation agreements with ANRPL and Mich Con which were necessary to move United's gas to storage. The Petitioners assert that United has had the opportunity to review this application and concurs with the requested abandonments and assignments.

Comment date: February 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

8. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP90–477–000]

January 9, 1990.

Take notice that on January 4, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP90–477–000 a request as supplemented on January 8, 1990, pursuant to § 157.205, 157.211, and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, and 284.223) for authorization to provide an interruptible transportation service for Damson Gas Processing Corp. (Damson) and to reverse the flow at an existing meter station to implement the service, under the blanket certificates issued in Docket Nos. CP82–401–000 and CP86–435–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that pursuant to a transportation agreement dated January 4, 1990, it proposes to receive up to 10 billion Btu of natural gas per day for Damson from a receipt point located at the Cargray Plant, Carson County, Texas and redeliver the gas at Damson at the Crawford Plant located in Carson County, Texas. Northern estimates that the peak day, average day and annual volumes would be 10,000 million Btu, 7,500 million Btu, and 3,650,000 million Btu, respectively.

Northern states that it would provide the service for a primary term of term of two years from the date of initial delivery but would continue the service on a month-to-month basis until terminated by either party upon thirty days written notice to the other party. Northern proposed to charge rates and abide by the terms and conditions of its Rate Schedule IT–1.

Northern indicates that to implement the transportation service it proposes to reverse the flow the at an existing purchase meter located at the Crawford Plant located in Carson County, Texas. Northern states that the meter has been dormant since 1987, and has been used by Northern for receipt of purchases from Texaco. It is also indicated that the facility has been abandoned pursuant to the provisions of the Commission's Order No. 490.

It is indicated that Damson currently is using gas processed at the Schafer Gas Plant as fuel for its field compressors and testing facilities. It is also stated that Damson is rearranging its compression, treating and processing facilities in this area to increase efficiency and plans to gather unprocessed gas from the Schafer Plant at its Cargray Plant downstream of the Schafer Plant for further treating and processing, at which time the Schafer Plant would be shut down. It is then indicated that when this occurs, Damson would need a new way to receive pipeline-quality gas to be used as fuel for its field compression and treating operations. Northern states that the proposed transportation service would enable Damson to transport a portation ot its own gas from the Cargray Plant to the Crawford Plant receipt point for delivery into the existing Schafer Plant

system and thus avoiding any curtailments and/or shut-ins of the approximately 20,000 Mcf per day of gas production which is needed during the current winter period.

It is indicated that the modifications of the proposed facilities would be financed in accordance with Paragraph 2 of the General Terms and Conditions of Northern's Gas Tariff, Third Revised Volume No. 1. Northern states that the total estimated cost of the facility would be minimal but the Damson would be required to reimburse Northern for the filing fee related to the application. Northern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment to Northern's other customers.

Comment date: February 23, 1990, in accordance with Standard Paragraph G at the end of this notice.

9. Midwest Gas Storage Inc.

[Docket No. CP90–454–000]

January 9, 1990.

Take notice that on December 27, 1990, Midwest Gas Storage Inc. (Midwest), 13100 Southwest Highway, Palos Park, Illinois 60464, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), and part 157 of the Commission's Regulations. Midwest requests a certificate of public convenience and necessity: (1) Authorizing (a) the construction of certain storage field and pipeline facilities, and (b) the acquisition of additional storage leasehold acreage and minor surface land for a meter station, (2) approving jurisdictional rates that Midwest will charge customers for storage service using such facilities, and (3) authorizing self-implementing, non-discriminatory, open-access storage service by means of such new facilities and other existing but not previously commissioned storage facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that in 1989 Midwest purchased the Calcutta-Carbon Storage Field, located in Clay and Parke Counties, Indiana, and originally developed by Panhandle Eastern Pipe Line Company but never put in service. Midwest states that it plans to complete development of the field and construct a 12-inch pipeline from the field approximately 14 miles north along Indiana Route 59 to a new interconnection with Panhandle's main west-to-east transmission lines in Parke County, Indiana. It is stated that while the Panhandle interconnection is expected to be the principal receipt and delivery point for storage gas, Midwest will also provide as receipt and delivery points existing interconnections with the intrastate facilities of Terre Haute Gas Company (Terra Haute) and 6-inch diameter interstate facilities of Texas Gas Transmission Corporation (Texas Gas).

Midwest proposed to construct the following facilities:

14 miles of 12-inch O.D. pipeline from the field to Panhandle's interconnection in Parke County, Indiana;

Field station housing 1,480 horsepower of compression and metering equipment;

27 new injection/withdrawal wells and 1 brine disposal well;

12 miles of small diameter (3.5-inch to 6.5-inch) gathering pipe; and

Miscellaneous storage field facilities (gravel roads, communications, etc.).

Midwest is also requesting that the certificate authorize it to operate and renovate various existing facilities, including some 61 wells, 240 horsepower compressor, field buildings and equipment, and interconnections with Terre Haute and Texas Gas.

Midwest states that the estimated capital cost of the proposed facilities, field acquisition, and cushion gas is $12,275,758 (in 1989 dollars), with some of the cost paid for in the second through fourth years of development. It is also indicated that Midwest would use project financing to fund the project.

Midwest states that although it currently holds leases on 7,800 surface acres overlaying the Calcutta-Carbon Storage field, it seeks an additional 1,370 acres to be leased in order most efficiently to develop and operate the structure.

Midwest states that the total capacity of the Calcutta-Carbon field is 5.5 billion cubic feet, with top gas storage capacity of 3.9 billion cubic feet by the fourth year of operations and maximum daily withdrawal deliverability of 35,000 Mcf per day. Midwest plans to market under Rate Schedule FSS 1.125 billion cubic feet of 90-day firm service with 12,500 Mcf per day maximum withdrawals and 2.475 billion of 110-day firm service with 22,500 Mcf per day maximum withdrawals. It is also stated that it would also market interruptible storage under Rate Schedule ISS.

Midwest proposes the following initial rates, which are levelized over the first four years of operating the Calcutta-Carbon Storage Field:

	Maximum	Minimum
Firm Storage Service (FSS)		
Deliverability Charge [billed monthly per Mcf of contract maximum withdrawal quantity]	$4.3603	$1.3081
Capacity Charge [billed monthly per Mcf of contract maximum annual quantity	0.0397	0.0119
Injection Commodity Charge	.0051	.0051
Withdrawal Commodity Charge	.0051	.0051
Interrupbitle Storage Service (ISS)		
Volumetric Charge [billed per Mcf of average monthly balance of gas in storage]	.0914	.0274

It is also indicated that while Midwest has already signed letters of interest with some prospective shippers, it would use this public notice period, afforded by the Commission for interested parties to intervene, as an "open season" for prospective shippers to request long term firms service. It is states that open season would end thirty (30) days from the date of publication of the notice in the **Federal Register.**

Midwest also states that at the end of the 30-day open season, Midwest would make a list of all requestors and would proceed expeditiously to negotiate and execute binding precedent agreements with all qualified shippers desiring to take service. It is indicated that the form of this precedent agreement is appended in Exhibit I of the application, and contains the primary contractual commitments needed for financing this project and qualifying prospective shipper: A legally binding commitment to take service once the project is operational; an initial fixed term of at least five years; an irrevocable letter of credit from a financial institution in an amount equal to the first contract year's combined deliverability and capacity charge billings; and submission of specifice financial documents demonstrating sufficient creditworthiness to perform on the FSS Agreement.

Midwest also states that because top gas capacity would increase over the first four years due to intercycling, those open season requesting parties seeking to increase their maximum contract quantities (annual and daily withdrawal) commensurately would be given preference. It is indicated that should the firm storage requests from qualified shippers exceed expected firm capacity, Midwest would prorate all such requests and report the results of this open season to the Commisison.

Midwest requests that the Commission issue a blanket certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing it to store natural gas for others on a self-implementing, non-discriminatory contract basis. Midwest states that the requested certificate would authorize Midwest to provide firm and interruptible contract storage on a self-implementing basis subject to available capacity, with pre-granted abandonment, for any party complying with the rate schedule requirements.

Comment date: January 30, 1990 in accordance with Standard Paragraph F at the end of the notice.

10. Pennzoil Company, Pennzoil Exploration and Production Co., and United Gas Pipe Line Co.

[Docket No. CP90-466-000]

January 10, 1990.

Take notice that on January 2, 1990, Pennzoil Company, Pennzoil Exploration and Production Company (Pennzoil), and United Gas Pipe Line Company (United) filed in Docket No. CP90-466-000 a joint petition under rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order stating that certain existing gathering facilities currently owned by United are exempt from the Commission's jurisdiction pursuant to section 1(b) of the Natural Gas Act (NGA). United also requests that, to the extent individual facilities are determined to be non-jurisdictional, the Commission amend the corresponding certificates authorizing their construction and use to exclude such facilities. It is states that under a take-or-pay (TOP settlement agreement signed by Pennzoil and United and approved by the Commission, 41 FERC ¶ 61,278 (1987), United agreed to convey to Pennzoil specific interests in these facilities upon receipt of an order from the Commission declaring them to be non-jurisdictional under Section 1(b) of the NGA.

The parties state that the facilities are located in various gas fields in Louisiana and Texas and were originally built by United to gather gas sold to United at the wellhead by Pennzoil and others. It is stated that most of the facilities were constructed pursuant to budget-type certificates which did not involve a detailed project analysis to consider the length and diameter of the pipe, but only established fixed-dollar limits for minor construction proposals. It is further stated that the Commission never directly addressed the issue of whether these certificated facilities were, in fact, gathering facilities eligible for exemption from Commission jurisdiction under section 1(b) of the NGA. Accordingly, as it has in past instances, Pennzoil and United request that the Commission vacated the section 7(c) certificates under which these facilities were constructed and operated because the original classification of these facilities was not dispositive of their true nonjurisdictional function.[1]

Upon receipt of the requested declaratory order, United states that it will convey to Pennzoil, a producer of natural gas, interests in these facilities, all of which connect to wells in which Pennzoil has an interest, and the facilities will not be used by United, an interstate pipeline, as jurisdictional facilities. It is stated that Pennzoil desires to acquire an interest in these facilities in order to obtain control over the gathering route that will bring its gas to the transmission market. It is alleged that this will enable Pennzoil access to the mainline transmission facilities of United and other pipelines.

Pennzoil and United state that the facilities can be grouped into three primary categories: (1) Field pipelines consisting of short-milage, small diameter pipe that are a part of a network originating at the producing wells and connecting to a central point in the field; (2) compressor stations and appurtenant facilities operated within a producing field to move gas to a central location within the field; and (3) short pipelines that will, once conveyed to Pennzoil, perform a gathering rather than transmission function.

It is stated that the following is a brief overview of the field pipeline facilities:

Sugar Creek—consists of a meter station and approximately two and one-half miles of six-inch diameter pipe;

Calhoun—consists of approximately 0.8 mile of six-inch diameter pipeline, one meter station, and approximately one-eighth of a mile of four-inch pipeline;

Bayou Rambio—consists of one meter station and approximately one and one-half miles of sight-inch diameter pipeline;

Crescent Farms—consists of approximately one mile of eight-inch diameter pipeline;

Southeast Darco—consists of approximately two and one-third miles of four-inch diameter pipeline and one meter station;

Deer Island—consists of approximately one mile of eight-inch diameter pipeline and one meter station;

East Bethany—consists approximately eight feet of four-inch diameter pipeline and one meter station;

Lake Gero—consists of approximately twenty-five feet of four-inch diameter pipeline and one meter station;

Pettus—consists of approximately 0.03 mile of two and four-inch diameter pipeline and one meter station;

Percy Wheeler—consists of approximately one and one-eighth miles of two and one-half inch diameter pipeline and one meter station;

Carthage—consists of one meter station;

Kent Bayou—consists of approximately 12 feet of eight-inch diameter pipeline and one meter station;

Paxton—consists of approximately 10 feet of four-inch diameter pipeline and one meter station;

West Tuleta—consists of approximately 5 feet of two-inch diameter pipeline and one meter station.

The parties state that collectively, the field pipelines in question range in length from under 10 feet to slightly less than two and one-third miles; they range from two inches in diameter to eight inches in diameter; and the meter stations are either two-inch, four-inch- or six-inch diameter units. Therefore, the parties states that the field pipelines clearly have the characteristics of gathering facilities that have historically been exempt from Commission jurisdiction.[2]

The parties also state that the following is a brief overview of the compression facilities:

Carthage Compressor Station—located in Carthage field, George Goodwin Survey, A-224, Panola County, Texas and consists of seven compression units with a total of 8,080 horsepower as well as appurtenant facilities;

Sterlington Compressor Station—located in Monroe Field, Section 32, T20N-R4E, Ouachita Parish, Louisiana and consists of two 1200 horsepower compressors and appurtenant facilities.

It is stated that the purpose of these compression facilities is to compress low-pressure gas at the wellhead or at some point in the gathering system in order to raise such gas to the wellhead flowing pressure of other gas in the system. Pennzoil and United believe that these facilities are production-related rather than transmission facilities under the *Farmland* standard.

The remaining facilities to be conveyed are described as follows:

[1] See, Tennessee Gas Pipeline Company, 47 FERC ¶ 61,029, 61,092 (1989).

[2] *See*, Farmland Industries Inc., 23 FERC ¶ 61,063 (1983).

Willow Springs Area—consists of approximately one-fifth of a mile of eight-inch diameter pipeline, ten feet of six-inch diameter pipeline, approximately two miles of 12-inch diameter pipeline and 91 feet of four-inch diameter pipeline, as well as one dehydration plant in the Willow Springs Field;

Agua Dulce Area—consists of approximately one-half of a mile of various diameter pipeline, ranging from eight-inch to 24-inch, one 20-inch meter station and two 60-inch gas separators.

It is stated that there are several wells connected to the Willow Springs facilities along the length of the line downstream to the dehydration plant in the field, and that this configuration confirms that the primary function of these facilities is gathering, thus exempting them from Commission jurisdiction under section 1(b) of the NGA. With respect to the Agua Dulce facilities, it is stated that this line can be considered a plant discharge line and will be used as such by Pennzoil as part of its gathering facilities.

Comment date: January 31, 1990, in accordance with the first subparagraph of Standards Paragraph F at the end of this notice.

11. Trunkline Gas Co.

[Docket No. CP90-487-000]

January 10, 1990.

Take notice that on January 5, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-487-000 a request pursuant to Section 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of Conoco, Inc. (Conoco), a producer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP86-586-000 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.

Trunkline proposes to transport, on an interruptible basis, up to 10,000 dt equivalent of natural gas on a peak day for Conoco, 10,000 dt equivalent on an average day, and 3,650,000 dt equivalent on an annual basis. It is stated that Trunkline would receive the gas from Conoco at South Timbalier Block 148 and Ewing Bank Block 305, offshore Louisiana, and would deliver equivalent volumes, less fuel and unaccounted for line loss, to the Bayou Vista Plant, the Patterson II Plant and the Shell Calumet Plant in St. Mary Parish, Louisiana. It is asserted that the transportation service would be effected using existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced November 1, 1989, under the self-implementating authorization of section 284.223 of the Commission's Regulations.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

12. Tennessee Gas Pipe Line Co.

[Docket No. CP90-481-000]

January 10, 1990.

Take notice that on January 5, 1990, Tennessee Gas Pipleine Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-481-000 a request pursuant to §§ 157.205 and 284.233 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for Colony Natural Gas Corporation (Colony), under its blanket certificate issued in Docket No. CP87-115-000 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.

Tennessee states that it proposes to transport for Colony 100,000 dt on a peak day, 100,000 dt on an average day and 36,500,000 dt on an annual basis. Tennessee also states that pursuant to a Transportation Agreement dated November 2, 1989 as amended on November 7, 1989, and November 22, 1989 between Tenneseee and Colony (Transportation Agreement) propose to transport natural gas for Colony from receipt points located in Offshore Louisiana, Texas, Louisiana, Mississippi, and Alabama. The points of delivery and ultimate points of delivery are located in Louisiana, Texas, Mississippi, Alabama, Tennessee, Ohio, Pennsylvania, West Virginia, and Kentucky.

Tennessee further states that it commenced this service on December 5, 1989, as reported in Docket No. ST90-1255-000.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

13. Trunkline Gas Co.

[Docket No. CP90-490-000]

January 10, 1990.

Take notice that on January 5, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed a request for authorization in Docket No. CP90-490-000, pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act to provide a transportation service on behalf of PSI, Inc., a marketer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP86-586-000 all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Trunkline requests authority to transport up to 100,000 Dt. per day on an interruptible basis on behalf of PSI pursuant to a transportation agreement dated November 1, 1989, between Trunkline and PSI, The transportation agreement provides for Trunkline to receive gas from various existing points of receipt in the states of Illinois, Louisiana, Tennessee, and Texas, from the Panhandle receipt at Douglas County, Illinois, and from the areas of offshore Louisiana and offshore Texas. Trunkline would then transport and redeliver subject gas, less fuel and unaccounted for line loss, to Midwestern Gas Transmission at Potomac in Vermilion County, Illinois.

Trunkline further states that the estimated daily and estimated quantities would be 50,000 Dt. and 18,250,000 Dt., respectively. Service under § 284.223(a) commenced on November 2, 1989, as reported in Docket No. ST90-980-000.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

14.Trunkline Gas Co.

[Docket No. CP90-483-000]

January 10, 1990.

Take notice that on January 5, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP90-483-000 a request pursuant to §§ 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Conoco, Inc. (CONOCO), a shipper and producer of natural gas, under its blanket certificate issued in Docket No. CP86-586-000 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.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for Conoco would be 2,000 dt equivalent of natural gas, 2,000 dt equivalent of natural gas and 730,000 dt equivalent of natural gas, respectively.

Trunkline states that it would transport natural gas for Conoco from Vermilion Block 320, offshore Louisiana to delivery points in Vermilion Parish, Louisiana.

Trunkline indicates that in a filing made with the Commission in Docket ST90–981, it reported that transportation service for Conoco commenced on November 1, 1989 under the 120-day automatic authorization provisions of § 284223(a).

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

15.Trunkline Gas Co.

[Docket No. CP90–489–000]

January 10, 1990.

Take notice that on January 5, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–489–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86–586–000 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.

Trunkline proposes to transport natural gas for Equitable Resources Marketing Company (Equitable), a marketer, pursuant to a transporation agreement dated September 28, 1989. Trunkline explains that service commenced November 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90–978. Trunkline further explains that the peak day quantity would be 75,000 dekatherms, the average daily quantity would be 75,000 dekatherms, and that the annual quantity would be 27,375,000 dekaterms. Trunkline explains that it would receive natural gas for Equitable's account at existing points of receipt in the States of Illinois, Louisiana, Tennessee, and Texas, from the Panhandle Eastern Pipe Line Company receipt in Douglas County, Illinois, and from the areas of Offshore Louisiana and Texas. Trunkline states that it would transport and redeliver the natural gas to Texas Eastern Transmission Corporation in Williamson County, Illinois.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

16. Texas Gas Transmission Corp.

[Docket No. CP90–387–000]

January 10, 1990.

Take notice that on December 14, 1989, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed an application, pursuant to section 7 of the Natural Gas Act (NGA), and part 157 of the Regulations of the Federal Energy Regulatory Commission, for a certificate of public convenience and necessity to authorize: (1) An increase in gas sales contract demand for an existing sales customer, Indiana Gas Company, Inc. (Indiana Gas), and (2) the construction and/or operation of certain facilities necessary to render this increased level of service, all as more fully described in the application which is on file with the Commission and open to public inspection.

Texas Gas states that it requests authority to increase the sales contract demand of Indiana Gas by 41,000 MMBtu per day. In order to provide such increased service, Texas Gas also requests authority to construct certain facilities which includes: (1) Two 2,650 horsepower reciprocating engines to be installed at Texas Gas's Leesville Compressor Station located in Lawrence County, Indiana; and (2) two segments of 20-inch pipeline, one involving 1.14 miles beginning in Breckinridge County, Kentucky, crossing the Ohio River and terminating in Perry County, Indiana, and another involving 14.24 miles beginning and terminating in Breckinridge County, Kentucky, and looping Texas Gas's existing Hardinsburg-Bedford 16-inch line.

Texas Gas also requests authority to operate, pursuant to section 7 of the NGA, a meter station consisting of one 12-inch run and related facilities located on Texas Gas' Bedford-Indianapolis 20-inch pipeline near Bargersville, Johnson County, Indiana. Texas Gas states that such facility will be installed pursuant to Section 311 of the Natural Gas Policy Act (NGPA), in order to provide Indiana Gas with transportation service under such authority.

The proposed effective date of the requested incremental service to Indiana Gas is November 1, 1990. Indiana Gas, upon receipt of the Commission's authorization will execute a new sales service agreement for a total of 141,000 MMBtu per day, under either Texas Gas' Rate Schedule G–3, or GN–3, for a primary term of seven (7) years and year-to-year thereafter.

Indiana Gas has requested the increased service from Texas Gas in order to meet increasing peak and annual gas demands from new and existing residential, commercial and industrial customers. The proposed increase will also allow Indiana Gas to replace peak day supply lost due to the retirement of various peak-shaving equipment previously utilized on their system.

Comment date: January 25, 1990, in accordance with Standard Paragraph F at the end of this notice.

17. Questar Pipeline Co.

[Docket No. CP90–464–000]

January 10, 1990.

Take notice that on January 2, 1990, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP90–464–000, a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to provide firm transporation service for Chevron U.S.A., Inc., (Chevron) under Questar's blanket certificate issued in Docket No. CP88–650–000 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.

Questar states that pursuant to a transportation agreement (Agreement) dated November 30, 1989, under its Rate Schedule T–2, it would transport up to 30,000 MMBtu per day equivalent of natural gas for Chevron from various receipt points on Questar's system in the state of Wyoming to an interconnection with Chevron in the State of Wyoming. Questar further states that the estimated average daily and annual quantities would be 30,000 MMBtu and 2,700,000 MMBtu, respectively. Questar indicates that the term of the Agreement is for a fixed period of 91 days.

Questar states that the transportation of natural gas for Chevron commenced on November 29, 1989, as reported in Docket No. ST90–1287–000, for a 120-day period pursuant to §284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

18. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP90–491–000]

January 10, 1990.

Take notice that on January 5, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed a request with the Commission in Docket No. CP90–491–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas on behalf of Texaco Gas Marketing, Inc. (Texaco), a natural gas marketer, under Northern's blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Northern proposes an interruptible natural gas transportation service up to

50,000 MMBtu equivalent per peak day, 37,500 MMBtu equivalent per average day, and 18,250,000 MMBtu equivalent per year for Texaco. Northern would receive gas for Texaco's account at various points on its system in Kansas, New Mexico, Oklahoma, and Texas, and would deliver equivalent volumes for Texaco's account at two delivery points on its system in Texas. Northern commenced its transportation service for Texaco on November 1, 1989, under the self-implementing authorization provisions of § 284.223(a) of the Regulations, as reported in Docket No. ST90-733.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

19. Transcontinental Gas Pipe Line Corp.

[Docket No. CP90-497-000]

January 10, 1990.

Take notice that on January 8, 1990, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-497-000, 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 provide a transportation service for Owens-Corning Fiberglass Corporation (Owens-Corning) under Transco's blanket certificate issued in Docket No. CP88-328-000 pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to transport, on an interruptible basis, up to 16,084 dekatherms (dt) of natural gas equivalent per day for Owens-Corning pursuant to a transportation agreement dated November 1, 1989, between Transco and Owens-Corning. Transco would receive natural gas at various existing receipt points in Texas, offshore Texas, Georgia, Mississippi, Alabama, New Jersey, Pennsylvania, Louisiana and offshore Louisiana and redeliver equivalent volumes of gas, less fuel and company used gas, at various existing delivery points in Louisiana and Texas.

Transco further states that the estimated average daily and annual quantities would be 3,000 dt and 1,095,000 dt respectively. Service under § 284.223(a) commenced November 1, 1989, as reported in Docket No. ST90-792-000, it is stated.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

20. Northern Natural Gas Co., Division of Enron Corp.

[Docket No. CP90-493-000]

January 10, 1990.

Take notice that on January 5, 1990, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-493-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of Elf Acquitaine, Inc., (Elf), a producer of natural gas under its blanket certificate issued in Docket No. CP86-435,000 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.

Northern states that the maximum daily, average and annual quantities that it would transport on behalf of Elf would be 30,000 MMBtu equivalent of natural gas, 22,500 MMBtu equivalent of natural gas and 10,950,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST90-593, filed with the Commission on November 27, 1989, it reported that transportation service on behalf of Elf had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

21. United Gas Pipe Line Co.

[Docket No. CP90-498-000]

January 10, 1990.

Take notice that on January 8, 1990, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas, 77251-1478, filed in Docket No. CP90-498-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Marathon Oil Company (Marathon), a producer, under United's blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on a firm basis 15,450 MMBtyu of natural gas on a peak day, 15,450 MMBtu on an average day, and 5,639,250 MMBtu on an annual basis for Marathon. United states that it would perform the transportation service for Marathon under United's Rate Schedule FTS. United indicates that it would receive the gas at a point in Webster Parish, Louisiana for delivery to four points in Ouachita Parish, Louisiana.

It is explained that the service commenced December 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-1084. United indicates that no new facilities would be necessary to provide the subject service.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

22. Trunkline Gas Co.

[Docket No. CP90-485-000]

January 10, 1990.

Take notice that on January 5, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP90-485-000 a request pursuant to §§ 157.205(b) and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Sun Operating Limited Partnership (Sun), a shipper and producer of natural gas, under its blanket certificate issued in Docket No. CP86-586-000 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.

Trunkline states that the maximum daily, average daily and annual quantities that it would transport for Sun would be 100,000 dt equivalent of natural gas, 100,000 dt equivalent of natural gas and 36,500,000 dt equivalent of natural gas, respectively.

Trunkline states that it would transport natural gas for Sun from existing points of receipt in Illinois, Louisiana, Tennessee, Texas, offshore Texas and offshore Louisiana to delivery points in Williamson County, Illinois.

Trunkline indicates that in a filing made with the Commission in Docket ST90-988, it reported that transportation service for Sun commenced on November 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

23. Trunkline Gas Co.

[Docket No. CP90-484-000]

January 10, 1990.

Take notice that on January 5, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed a request with the Commission in Docket No. CP90-484-000 pursuant to § 157.205 of the Commission's Regulations (18 CFR

157.205) for authorization to transport natural gas on behalf of V.H.C. Gas Systems, L.P. (V.H.C.), under Trunkline's blanket certificate issued in Docket No. CP86–586–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is open to public inspection.

Trunkline would perform the proposed interruptible transportation service for V.H.C., a shipper and marketer of natural gas, pursuant to a Transportation Agreement dated October 30, 1989 (Contract No. T–PLT–1898). The term of the transportation agreement is from October 30, 1989, and shall remain in effect for a primary term of one month and shall continue in effect month-to-month thereafter until terminated by Trunkline or V.H.C. upon at least 30 days' prior notice to the other. Trunkline proposes to transport for V.H.C., on an interruptible basis, up to 200,000 dt equivalent of natural gas on a peak day, 200,000 dt equivalent on an average day, and 72,000,000 dt equivalent on an annual basis. Trunkline states that it would receive the gas for V.H.C.'s account at various existing points on its system in Illinois, Louisiana, Tennessee, Texas, and Offshore Louisiana and Texas. Trunkline would then transport and redeliver the subject gas, less fuel and unaccounted for line loss, to Midwestern Gas Transmission at Potomac in Vermilion County, Illinois. Trunkline also states that no new facilities would be needed for implementing its proposed transportation service for V.H.C. The proposed rate to be charged is contained in Trunkline's currently effective PT rate schedule.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Trunkline commenced such self-implementing service on November 9, 1989, as reported in Docket No. ST90–979–000.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

24. Canyon Creek Compression Co.

[Docket No. CP90–482–000]

January 10, 1990.

Take notice that on January 5, 1990, Canyon Creek Compression Company (Canyon Creek), 701 East 22nd Street, Lombard, Illinios 60148, filed in Docket No. CP90–482–000 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 Union Pacific Fuels, Inc. (Union), a marketer of natural gas, under its blanket authorization issued in Docket No. CP89–1497–000 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.

Canyon Creek would perform the proposed interruptible transportation service for Union, pursuant to an interruptible transportation and compression service agreement dated August 14, 1989 (IGP–8022). The transportation agreement is effective for a primary term ending September 1, 2004, and shall continue month to month thereafter unless terminated by five days prior notice by either party. Canyon Creek proposes to transport up to a maximum of 30,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provisions of Canyon Creek's Rate Schedule ICS). Union advised Canyon Creek that the volume anticipated to be transported on an average day is 22,000 MMBtu; and based on that average day figure, the annual volume to be transported is 8,030,000 MMBtu. Canyon Creek proposes to receive the subject gas at the outlet of Amoco Production Company's Whitney Canyon Processing Plant located in Section 16, T17N–R119W, Uinta County, Wyoming. It is stated that the delivery points are the interconnections with Overthrust Pipeline Company and Questar Pipeline Company located in Section 16, T17N–R119W, Uinta County, Wyoming. Canyon Creek avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's Regulations. Canyon Creek commenced such self-implementing service on November 1, 1989, as reported in Docket No. ST90–687–000.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

25. Trunkline Gas Co.

[Docket No. CP90–486–000]

January 10, 1990.

Take notice that on January 5, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP90–486–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for LL&E Gas Marketing, Inc. (LL&E), a marketer, under Trunkline's blanket certificate issued in Docket No. CP86–586–000 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.

Trunkline states that pursuant to a transportation agreement dated September 20, 1989, it proposes to receive up to 50,000 Mcf per day at specified points located offshore and onshore Louisiana and Texas, Tennessee and Illinois and redeliver the gas, less fuel unaccounted for line loss, to ANR Pipeline Company at an existing interconnection located in St. Mary Parish, Louisiana. Trunkline estiamtes that the peak day, average day and annual volumes would be 50,000 dt equivalent of natural gas, 35,000 dt equivalent of natural gas, and 12,775,000 dt equivalent of natural gas, respectively. It is stated that on November 1, 1989, Trunkline initiated a 120-day transportation service for LL&E under § 284.223(a), as reported in Docket No. ST90–987–000.

Trunkline further states that no facilities need be constructed to implemenmt the service. Trunkline states that the service would continue on month-to-month basis unless terminated by either party upon at least thirty days prior notice to the other. Trunkline proposes to charge rates and abide by the terms and conditions of its Rate Schedule PT.

Comment date: February 26, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1086 Filed 1-17-90; 8:45 am]

BILLING CODE 6717-01-M

Kentucky West Virginia Gas Co.; Fifth Amendment to Compliance Filing

January 10, 1990.

Take notice that on Janaury 3, 1990, Kentucky West Virginia Gas Company (Kentucky West) filed a fifth amendment to its March 30, 1989 compliance filing so as to extend the proposed effective date for the proposed tariff sheets to March 1, 1990.

Kentucky West states that the tariff sheets filed March 30, 1989, were filed in compliance with the Commission's "Order Rejecting Compliance Filing" issued in the reference proceedings on March 15, 1989, and in accordance with the mandate of the United States Court of Appeals of the Fifth Circuit, issued in *Kentucky West Virginia Gas Co.* v. *FERC*, 780 F.2d 1231 (5th Cir. 1986).

Kentucky West states that, under the tariff sheets filed March 30, 1989, it would bill its customers directly for the difference between (1) the amounts each such customer paid during the period in which Kentucky West was required to price certain of its company production at cost of service rather than Natural Gas Policy Act (NGPA) rates; and (2) the amounts each such customer would have paid if Kentucky West, during such time period had not been denied the right to price its pipeline production at NGPA prices, plus interest calculated in accordance with the Commission's regulations. Kentucky West states further that its customers are given the option of paying the direct billing amount either: (1) By a lump-sum payment to be made by May 1, 1989; (2) in monthly installments of direct billing amounts, plus interest, to be paid over a period not to exceed 84 months; or (3) by a lump-sum payment during the installment period.

Kentucky West states that, by notice issued April 5, 1989, the Commission set April 14, 1989 as the deadline for motions to intervene or protests. However, on April 13, 1989, based on preliminary settlement discussions, Kentucky West filed its first amendment to the March 30, 1989 filing, changing the proposed effective date to September 1, 1989, and extending the deadline for interventions or protests until August 14, 1989. Subsequently, Kentucky West amended its filing so as to extend the effective date of the filing until November 1, 1989, and the date for filing interventions or protests until October 16, 1989.

On October 12, 1989, Kentucky West filed its third amendment to the March 30, 1989 filing, changing the proposed effective date to December 1, 1989, and extending the deadline for interventions or protests until November 16, 1989. On November 9, 1989, Kentucky West filed its fourth amendment to the March 30, 1989 filing, changing the proposed effective date to February 1, 1990, and extending the deadline for interventions or protests until January 14, 1990.

Kentucky West states that during the past few months it has made substantial progress in settlement discussions, but that if settlement is to be achieved, it will require further negotiations. Therefore, Kentucky West is amending its filing a fifth time so as to extend the proposed effective date of the tariff sheets filed to March 30, 1990. In this regard, Kentucky West asks that the provisions of § 154.22 of the Commission's Regulations be waived to the extent necessary to permit such extension.

Kentucky West states that it has contacted all parties to these proceedings and the Commission Staff, and no party nor the Commission Staff have any objection to this extension.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before February 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1088 Filed 1-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-4-5-000 and TF90-3-5-001]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

January 10, 1990.

Take notice that on January 8, 1990, Midwestern Gas Transmission Company (Midwestern) filed Superseding Second Revised Sheet No. 5, Replacing Second Revised Sheet No. 5, to its FERC Gas Tariff, to be effective December 1, 1989.

Midwestern states that the instant filing reflects a correction to the Section 3 Surcharge to the commodity rates of Midwestern's Rate Schedules SR-1 an I-1. Midwestern inadvertently omitted the D-2 surcharge from its calculations for the SR-1 and I-1 commodity rates in its filing in Docket No. TA89-2-5-000.

Midwestern also filed Substitute Third Revised Second Revised Sheet No. 5 to its FERC Gas Tariff, to be effective December 1, 1989.

Midwestern states that Third Revised Second Revised Sheet No. 5 was rejected by the Commission by a December 28, 1989 order from the Director, Office of Pipeline and Producer Regulation because Midwestern had corrected an omission for its calculations concerning the commodity rates of Midwestern's Rate Schedules SR-1 and I-1 in its filing on Docket No. TA89-2-5-000. Midwestern has

submitted concurrently herewith in Docket No. TQ90–4–5–000 a filing to correct that omission.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its System and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–1089 Filed 1–17–90; 8:45 am]

BILLING CODE 6717–01–M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; Norway

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following transfer: RTD/NO(EU)–57, for the transfer from the Federal Republic of Germany to Norway of 23 kilograms of uranium-oxide powder, enriched to 19.95 percent in the isotope uranium-235 for test fuel fabrication for the Halden reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than February 2, 1990 of this notice.

For the Department of Energy:

Dated: January 12, 1990

Thad Grundy, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 90–1167 Filed 1–17–90; 8:45 am]

BILLING CODE 6450–01–M

Savannah River Operations Office; Financial Assistance Award; Intent to Award a Noncompetitive Grant

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive award of grant.

SUMMARY: The Department of Energy (DOE) announces that is plans to award a renewal research grant to Selma University, Selma, Alabama, for the conduct of research entitled "The Microbial Degradation of Sodium Tetraphenylborate." The grant will be awarded for a one-year period at a DOE funding level of $116,495. Pursuant to § 600.7(b)(2)(i)(A) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that the activity to be funded is necessary to the satisfactory completion of an activity presently being funded by DOE and eligibility for this grant award shall be limited to Selma University.

Procurement request number: 09–90SR15151.001.

Project scope: For the past three years, Selma University has conducted research intended to measure microbial degradation of tetraphenylborate. Tetraphenylborate has been used at the Savannah River Site to precipitate radioactive cesium from the high-level wastes generated from reprocessing spent nuclear fuel. Selma plans to continue this research and to (1) reisolate and adapt microorganisms capable of utilizing higher concentrations of tetraphenylboron sodium; (2) study the effect of the addition of various readily metabolizable carbon substrates on the degradation rates; (3) identify and quantify the metabolites of tetraphenylboron degradation; and (4) analyze cultures obtained from other sites.

Selma University is a Historically Black College or University (HBCU) and falls within the meaning and intent of Executive Order 12677 pertaining to Government assistance to HBCUs. The participation of HBCUs in federally supported research is relatively limited. In order to overcome some of these limitations, the executive order directs federal agencies to increase the participation of HBCUs in federally-funded programs and to strenthen their capabilities to provide quality education. This award represents an effort to strenghten the HBCU community.

DOE has determined that this award to Selma University on a noncompetitive basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Ronald D. Simpson, Chief, Contracts Management Branch, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725–2096.

Issued in Washington, DC on December 22, 1989.

John D. Wagoner,

Deputy Manager, Head of Contracting Activity Designee, Savannah River Operations Office.

[FR Doc. 90–1168 Filed 1–17–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[ERA Docket No. 86–44–NG et al.]

Brooklyn Union Gas Co. et al.; Notice of Order Granting Conditional Authorization To Import Canadian Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting conditional authorization to import Canadian natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued a conditional order granting a total of 18 Northeastern local distribution companies (LDCs) authorization to import up to a total of 397,100 Mcf per day of Canadian natural gas. The natural gas would be exported from Canada and sold to the LCDs (herein called the Repurchasers) by Alberta Northeast Gas, Ltd. (ANE), a Canadian corporation established by the Repurchasers. ANE would purchase the gas in Canada pursuant to five gas purchase contracts with Canadian suppliers. The natural gas would be transported to the Repurchasers through either the proposed Iroquois Gas Transmission System (IGTS), from its yet to be established import point on the international border near Iroquois, Ontario, or by Tennessee Gas Transmission System (TGTS) from its existing Niagara import point.

Final approval of these import arrangements is conditioned on DOE's completion of its responsibilities under the National Environmental Policy Act of 1969 regarding the construction of the necessary facilities by IGTS and TGTS and a reexamination of the arrangements at that time.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4478. The Docket Room is open between the hours of 8 a.m. 4:30 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION: The authorization conditionally approves five joint applications filed in Docket Nos. 86–44–NG, 86–45–NG, 86–46–NG, 86–48–NG and 87–02–NG. The importers in ERA Docket Nos. 86–44–NG, 86–45–NG, 86–46–NG, and 87–02–NG are The Brooklyn Union Gas Company, Connecticut Light and Power Company, Connecticut Natural Gas Corporation, Southern Connecticut Gas Company, Long Island Lighting Company, Consolidated Edison Company of New York, Inc., New Jersey Natural Gas Company, Central Hudson Gas and Electric Corporation, and New York State Electric and Gas Corporation (NYSEG). The importers in ERA Docket No. 86–48–NG are the above named companies, except NYSEG, plus National Fuel Gas Supply Corporation, Colonial Gas Company, Elizabethtown Gas Company, Essex County Gas Company, Gas Service, Inc., Manchester Gas Company, Valley Gas Company, Public Service Electric and Gas Company, and Boston Gas Company.

The Repurchasers in ERA Docket No. 86–44–NG are conditionally authorized to import 75,000 Mcf per day to be sold to ANE by TransCanada Pipelines Limited (TCPL). In ERA Docket No. 86–48–NG the Repurchasers are conditionally authorized to import 200,000 Mcf per day to be sold to ANE by TCPL. The terms of the two TCPL contracts run until November 1, 2003.

The Repurchasers in Docket Nos. 86–45–NG, 86–46–NG, and 87–02–NG are conditionally authorized to import up to 66,000 Mcf per day to be sold to ANE by ProGas Limited (ProGas), up to 37,300 Mcf per day to be sold to ANE by ATCOR Limited (ATCOR), and up to 18,800 Mcf per day to be sold to ANE by Alberta Energy Corporation (AEC), respectively. The terms of the ProGas, ATCOR and AEC contracts run until the first November 1st occurring 15 years after the conclusion of the first contract year

Other than the variations in the volumes and length of the terms, the contracts between ANE and the various Repurchasers, and ANE and the Canadian sellers are virtually identical. The border price as established in the gas purchase agreements between ANE and its Canadian sellers is determined by indexing a base border price to the weighted average prices for natural gas, No. 2 fuel oil and No. 6 fuel oil in New York City. The border price would be adjusted whenever the indexing formula indicates more than a five percent change. The border price includes both demand and commodity charges. The monthly demand charge consists of the respective seller's allowable demand rate for transportation of the gas on the seller's system to the export point, and the demand toll as billed to the individual seller by its supplier. The commodity charge is determined by subtracting the demand charge from the adjusted border price. The minimum bill is the monthly demand charge and there are no take-or-pay requirements. Either party may require that the price and contract reduction provisions for any contract year be determined by renegotiation, or failing agreement, by arbitration.

Issued in Washington, DC, on January 11, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Program, Office of Fossil Energy.

[FR Doc. 90–1169 Filed 1–17–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–85–NG]

Dynasty Gas Marketing, Inc.; Application to Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on November 30, 1989, of an application filed by Dynasty Gas Marketing, Inc. (Dynasty), requesting blanket authorization to export from the United States to Canada up to 100,000 Mcf per day or a total of 72,000,000 Mcf of natural gas over a two-year period commencing with the date of first delivery. Dynasty intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported natural gas. Dynasty states that it will notify the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices or intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., February 20, 1990.

ADDRESS:

Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Dynasty, a Texas corporation with its principal place of business in Stafford, Texas, intends to export natural gas to Canada in the capacity of a marketer, broker or agent, for spot market sales to Canadian purchasers including local distribution companies and end-users. Dynasty states that the terms of all export sales, including price, would result from arms-length negotiations and reflect market conditions.

In support of its application, Dynasty states that the supply of natural gas in the United States coupled with the short-term nature of the blanket export authority requested make it unlikely the export volumes would be needed domestically during the term of the authorization. Dynasty also states that the proposed exports would enhance cross-border competition in the marketplace consistent with DOE policy goals.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the

arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, the authorization may permit the export of natural gas at any point of exit on the international border where existing pipeline facilities are located and that a total term volume may be designated, rather than a daily or annual limit, in order to provide the applicant with maximum flexibility of operation.

Dynasty requests that an authorization be granted on an expedited basis. Except in emergency circumstances, section 590.205(a) of the administrative procedures provides for a public comment period of not less than 30 days. Dynasty has failed to identify any emergency circumstances that would justify expedited consideration. Therefore, a decision on the application will not be made until all responses to this notice have been received and evaluated.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless it appears during the proceeding on this application that the grant or denial of the authorization would significantly affect the quality of the human environment, the DOE expects that no additional environmental review will be required.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Dynasty's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 10, 1989.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–1170 Filed 1–17–90 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 89–73–NG]

Long Island Cogeneration Limited Partnership; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for long-term and a blanket authorization to import Canadian natural Gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 24, 1989, of an application by Long Island Cogeneration Limited Partnership (LI Cogen) for authorization to import up to 15,300 MMBtu (approximately 15,300 Mcf) per day of Canadian natural gas per day, and up to a total of 105 Bcf over a 20-year term, via the import point near Niagara Falls, New York. LI Cogen also requests blanket authority to import up to an additional 2,000 MMBtu of natural gas per day on a blanket basis for a total of 1.4 Bcf over a two-year term. The imported gas would be purchased from Canadian Occidental Petroleum Limited (CanadianOxy) and used to fuel a proposed 79 MW cogeneration facility to be operated by the applicant in Oyster Bay, New York. Transportation of the gas from the border would be via expanded pipeline facilities of Transcontinental Gas Pipeline Corporation (Transco) and a new 8,400-foot pipeline to be constructed by the Long Island Lighting Company (LILCO).

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., Feburary 20, 1990.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:
Stanley C. Vass, Office of Fuel Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9482.
Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: The applicant is a limited partnership whose general partner is Long Island Cogeneration, Inc., a New York Corporation which, in turn, is an affiliate of Tellus, Inc., a Delaware corporation. The electricity produced by the proposed 79 MW cogeneration facility would be sold to LILCO to meet its peak and base load demand. The steam produced would be sold to a state institution located within one mile of the proposed cogeneration plant site. The proposed cogeneration facility would be operated as a qualifying facility under the Public Utility Regulatory Policies Act of 1978 (PURPA).

The gas to fuel the proposed cogeneration facility would be imported by the applicant, LI Cogen, under the terms of a gas purchase and sales agreement dated May 1, 1989, with CanadianOxy commencing on the date of first commercial operation of the proposed cogeneration facility but no later than the eariler of 30 months after LI Cogen obtains construction financing or December 31, 1992. Under the gas purchase and sales agreement, LI Cogen is obligated to take or pay for 3,900,000 MMBtu or approximately 70 percent of the total annual contract quantity for the first contract year and 4,450,000 MMBtu or approximately 80 percent of the total annual contract quantity for each contract year thereafter. However, LI Cogen may make up any quantity of gas paid for but not taken in any contract year over the entire term of the agreement.

The pricing provisions of the LI Cogen/CanadianOxy gas purchase and sales agreement provide that LI Cogen would pay CanadianOxy a border price of $2.50 (U.S.) per MMBtu, as adjusted monthly upward or downward using an index designed to track conditions in the local market. According to the applicant, the index uses a base period of the last calendar quarter of 1988 and the first quarter of 1989, and, reflects an aggregated index consisting of equal weights for New York prices of heavy fuel oil and natural gas. Specifically, the numerator of the index would consist of the actual price for each month of No. 6 fuel oil traded in New York Harbor and the city gate price for natrual gas in certain New York markets. The denominator would consist of the average price for No. 6 fuel oil traded in New York Harbor and the average price of natural gas in certain New York markets during the base period. After the first ten years of the LI Cogen/CanadianOxy contract, the calculation of the price of the imported gas would be subject to a ceiling equal to the prevailing city gas prices of natural gas in the New York area and a floor based on the contract value of the gas and prevailing New York City gate gas prices. The total burner tip price in 1989 dollars would equal $3.26 per MMBtu, which represents the base price of $2.50 per MMBtu to CanadianOxy at the border, plus $.45 to Transco and $.31 to LILCO for domestic transportation.

The applicant asserts that the imported gas would be competitive because the price to be paid by LI Cogen would be linked to the price of natural gas and fuel oil prices in the New York City area and because the price of electric power to be supplied by the proposed cogeneration facility to LILCO would reflect LILCO's avoided costs of obtaining electric power from other sources. The applicant also asserts that Long Island is an area in need of additional electric power to meet peak period demand and that the use of clean-burning natural gas rather than coal or oil in fueling the proposed cogeneration plant would minimize possible adverse environmental impact.

The decision on LI Cogen's application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because the volumes are needed for a proposed new cogeneration plant, the price of the gas is competitive, and its Canadian supplier is reliable. Parties opposing the import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. The FERC is currently performing an environmental review of the impacts of constructing and operating the proposed facilities related to this project. The DOE will independently review the results of the FERC environmental evaluation of this project in the course of making its own environmental determination. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures:

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments, should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an

oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of LI Cogen's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 10, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–1171 Filed 1–17–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket 89–71–NG]

Salmon Resources Ltd.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Salmon Resources Ltd. (Salmon) blanket authorization to import 100 Bcf of Canadian natural gas over a two-year period beginning February 15, 1990, through February 14, 1992.

A copy of the order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 16, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–1172 Filed 1–17–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket 89–67–NG]

Sierra Pacific Power Company; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued an order granting Sierra Pacific Power Company (Sierra) blanket authorization to import up to 40,000,000 dekatherms (39.16 Bcf) of Canadian natural gas for short-term and spot market sales over a two-year period beginning on the date of the first delivery.

A copy of the order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC January 10, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–1173 Filed 1–17–90; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. FE C&E 90–04; Certification Notice–52]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

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 alternate 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
KES Kingsburg, L.P., San Francisco, CA	12–28–89	Topping/Combined Cycle	36	Kingsburg, CA

Amendments to the FUA on May 21, 1987, (Public Law 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 January 11, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-1174 Filed 1-17-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Department of Defense

Department of the Army

[FRL-3706-2]

Memorandums of Agreement

AGENCIES: Environmental Protection Agency and Department of the Army, DOD.

ACTION: Notice.

SUMMARY: On November 15, 1989, the Assistant Administrator for Water of the Environmental Protection Agency (EPA) and the Assistant Secretary of the Army for Civil Works (Civil Works) signed a Memorandum of Agreement (MOA or Agreement) concerning the type and level of mitigation necessary to demonstrate compliance with the guidelines under section 404(b)(1) of the Clean Water Act.[1] Under the terms of the MOA, the Agreement was to become effective 30 days after signature (December 15, 1989).

Prior to the effective date (December 15, 1989) implementation of the MOA was delayed for a period of 30 days (i.e., January 16, 1990.) [2] Due to the high level of interest, we are continuing this delay in implementation for an additional 15 days (i.e., January 31, 1990) to permit the consideration of additional views.

DATES: With this extension, the effective date of the Memorandum of Agreement is January 31, 1990.

ADDRESSES: Copies of the MOA are available from:

Office of Wetlands Protection (A-104F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Office of the Assistant Secretary of the Army, Department of the Army, Room 2E569, The Pentagon, Washington, DC 20310-0103

Headquarters, U.S. Army Corps of Engineers (CECW-OR), 20 Massachusetts Avenue, NW., Washington, DC 20314-1000

FOR FURTHER INFORMATION: Suzanne Schwartz of the Environmental Protection Agency at the address given above; telephone 202/475-7799, (FTS) 475-7799; or David Barrows of the Department of the Army at the address given above; telephone 202/695-1376, (FTS) 695-1376.

SUPPLEMENTARY INFORMATION: Under previous amendments to paragraph III.G. of the EPA-Army Memorandum of Agreement, the MOA was to become effective on January 16, 1990. EPA and Army hereby amend the first sentence of paragraph III.G. to read as follows:

This MOA shall take effect on January 31, 1990, and will apply to those completed standard permit applications which are received on or after that date.

Robert H. Wayland III,

Deputy Assistant Administrator for Water.

Robert W. Page,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 90-1200 Filed 1-12-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3706-1]

Municipal Settlement Discussion Group Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The Municipal Settlement Discussion Group will meet on Wednesday, February 7, 1990, at the Hall of the States located at 444 North Capital Street, NW. in Washington, DC from 2:00 p.m. to 5:00 p.m. in room 237/239. The meeting is open to the public. The Environmental Protection Agency formed this group in June of 1988 to provide a public forum for interested parties to provide input into the development of EPA's Superfund Municipal Settlement Policy. The group met in June, August, and October of 1988; the February 7, 1990 meeting will be the final meeting of the group. The purpose of the meeting is to facilitate public comment on the interim Superfund Municipal Settlement Policy which was released to the public for comment in December of 1989. The public comment period on the interim policy closes February 12, 1990. The group consists of representatives from EPA, States, local governments, as well as industry, environmental, and other groups.

FOR FURTHER INFORMATION CONTACT: Kathleen MacKinnon at the Environmental Protection Agency, Office of Waste Programs Enforcement (OS-510), 401 M Street, SW., Washington, DC 20460 (202-475-9812).

Deborah Lebow,

Acting Chief, Guidance and Oversight Branch, CERCLA Enforcement Division.

[FR Doc. 90-1150 Filed 1-17-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-850-DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-850-DR), dated January 9, 1990, and related determinations.

DATED: January 9, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20477 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated January 9, 1990, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from a severe freeze which occurred on December 21-24, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Disaster Unemployment Assistance in the designated areas. The length of the benefit period shall be determined by the regional Director of the Federal Emergency Management Agency, but in no case will benefits continue longer than 26 weeks from the date of declaration.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

[1] See 54 FR 51319, December 14, 1989.

[2] See 54 FR 52438, December 21, 1989.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Graham L. Nance of the Federal Emergency Management Agency to act as the Federal Coordinating Office for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

The counties of Cameron, Hidalgo, Starr, and Willacy for Disaster Unemployment Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 90-1138 Filed 1-17-90; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed; Greece Westbound Conference et al.

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.: 202-009238-023

Title: Greece Westbound Conference.

Parties: Farrell Lines, Inc., Sea-Land Service, Inc., Lykes Bros. Steamship Co., Inc., Zim Israel Navigation Company, Ltd.

Synopsis: The proposed modification would expand the geographic scope of the Agreement to include all cargo shipped from all points in continental Europe via Greek ports to the U.S. Atlantic, Gulf and Pacific coasts and U.S. inland points via such ports.

Agreement No.: 232-011270

Title: Pharos/Levant Space Charter and Sailing Agreement.

Parties: Pharos Lines S.A., Levant Line S.A.

Synopsis: This Agreement proposes to establish space charter and coordinated sailing arrangements between Pharos Lines S.A. and Levant Line S.A., in the trade between U.S. East and Gulf coasts ports and inland points via such ports and all ports on the Mediterranean and Black Seas and inland points via such ports. The parties may also discuss and agree upon rates, rules, regulations and other tariff terms. The parties have no obligation, other than voluntarily, to adhere to any consensus or agreement reached. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: January 11, 1990.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 90-1103 Filed 1-17-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of November 14, 1989

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 14, 1989.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests continuing expansion in economic activity, though at a somewhat slower pace than earlier in the year. Total nonfarm payroll employment increased appreciably in October, but on balance its growth has been more moderate over the past several months, especially in the private sector. The civilian unemployment rate has remained around 5¼ percent. Strike activity and other disruptions depressed industrial production noticeably in October. Retail sales fell appreciably in October, reflecting a sharp drop in purchases of motor vehicles, but some upward revisions were made for August and September. Housing starts fell further in September and for the third quarter as a whole were about unchanged from their reduced second-quarter average. Indicators of business capital spending suggest slower growth after a substantial increase in the first half of the year. The nominal U.S. merchandise trade deficit widened in August from its July rate as non-oil imports increased markedly. Consumer prices have risen more slowly on balance since midyear, partly reflecting sharp reductions in energy prices, but the latest data on labor compensation suggest no significant change in prevailing trends.

Most interest rates have declined appreciably since the Committee meeting on October 3. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies declined slightly on balance over the intermeeting period.

M2 continued to grow fairly briskly in October, largely reflecting strength in its M1 and other liquid components; thus far this year M2 has expanded at a pace somewhat below the midpoint of the Committee's annual range. Growth of M3 picked up in October but has remained much more restrained than that of M2, as assets of thrift institutions and their associated funding needs apparently continued to contract; for the year to date, M3 has grown at a rate around the lower bound of the Committee's annual range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the ranges it had established in February for growth of M2 and M3 of 3 to 7 percent and 3½ to 7½ percent, respectively, measured from the fourth quarter of 1988 to the fourth quarter of 1989. The monitoring range for growth of total domestic nonfinancial debt also was maintained at 6½ to 10½ percent for the year. For 1990, on a tentative basis, the Committee agreed in July to use the same ranges as in 1989 for growth in each of the monetary aggregates and debt, measured from the fourth quarter of 1989 to the fourth quarter of 1990. The behavior of the monetary aggregates will continue to be evaluated in the light of movements in their velocities, developments in the economy and financial markets, and progress toward price level stability.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of progress toward price stability, the strength of the business expansion, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, slightly greater reserve restraint might or slightly lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from September through December at annual rates of about 7½ and 4½ percent, respectively. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 7 to 11 percent.

[1] Copies of the Record of policy actions of the Committee for the meeting of November 14, 1989, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

By order of the Federal Open Market Committee, January 11, 1990.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 90–1116 Filed 1–17–90; 8:45 am]

BILLING CODE 6210–01–M

Citicorp, et al. Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulations Y (12 CFR 225.23(a)(2) or (f)) 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 lsited 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 Baord 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 competion, conflicts of interest, and 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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 1, 1990.

A Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to acquire American Financial Systems, Inc., Haversford, Pennsylvania, and thereby engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to acquire Meuse, Rinker, Chapman, Endres & Brooks, Columbus, Ohio, and thereby engage in securities brokerage activities pursuant to § 225.25(b)(15); investment and financial advisory activities pursuant to § 225.25(b)(4); combined investment advisory and securities brokerage activities for institutional and retail customers approved by Board Order (*Bank of New England.*, 74 Fed. Res. Bull. 700 (1988); *PNC Financial Corp*, 75 Fed. Res. Bull. 396 (1989); and *First Union Corp.*, 75 Fed. Res. Bull. 645 (1989); corporate financial advisory services of the type approved by the Board in *Signet Banking Corp.*, 73 Fed. Res. Bull. 59 (1987) and *Canadian Imperial Bank of Commerce*, 74 Fed. Res. Bull. 571 (1988), and subject to the limitations established by the Baord in those orfers; acting as a futures commission merchant pursuant to § 225.25(b)(18); providing investment advice on financial futures and options on futures pursuant to § 225.25(b)(19); underwriting and dealing in bank-eligible securities pursuant to § 225.25(b)(16); and underwriting and dealing to a limited extent in municipal revenue bonds, 1–4 family mortgage-related securities, commercial paper, and consumer-receivable-related securities—subject to the limitations established by the Board for those activities. *See, Citicorp, J.P. Morgan & Co. Inc., and Bankers Trust New York Corp.*, 73 Fed. Res. Bull. 473 (1987), *aff'd sub nom., Securities Industry Association* v. *Board of Governors of the Federal Reserve System*, 839 F. 2d 47 (2d Cir.), *cert. denied*, 108 S. Ct. 2830 (1988); and *Chemical New York Corp., the Chase Manhattan Corp., Bankers Trust New York Corp., Citicorp, Manufacturers Hanover Corp. and Security Pacific Corp.*, 73 Fed. Res. Bull 731 (1987).

C. Federal Reserve Bank of the San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Mitsui Bank, Limited*, Tokyo, Japan; to acquire Security Pacific Financial Servies System, Inc., and SPFSS, Inc., San Diego, California, and thereby engage in making, acquiring, and servicing loans pursuant to § 225.25(b)(1); leasing personal or real property pursuant to § 225.25(b)(5); furnishing collection services and charge-off recovery services to affiliates and others pursuant to § 225.25(b)(23); furnishing data processing and data transmission services pursuant to § 225.25(b)(7); underwriting and acting as agent for sale of insurance (including home mortgage redemption insurance) directly related to extension of credit by Security Pacific Corporation or its subsidiaries, limited to ensuring the repayment of the outstanding balance due on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted internationally.

Board of Governors of the Federal Reserve System, January 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90–1117 Field 1–17–90; 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 § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or banks holding company. The factors are considered in acting on the notices are set forth in paragraph 7 of th 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 February 1, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *H.G. Counts*, Marble Falls, Texas; to acquire 11.77 percent of the voting shares of Marble Falls National Bancshares, Inc., Marble Falls, Texas, and thereby indirectly acquire Marble Falls National Bank, Marble Falls, Texas.

2. *Ronald Samuels*, Parker, Texas, to acquire 27.41 percent; Dianna W. Skeeters, Radcliff, Kentucky, to acquire 27.41 percent; James W. Parker, Plano, Texas, to acquire 13.71 percent; Jerry Dwight, Richardson, Texas, to acquire 13.71 percent; and Carl Eatherly, Plano, Texas, to acquire 7.15 percent of the voting shares of IB Bancshares, Inc.,

Plano, Texas, and thereby indirectly acquire Independence Bank, Plano, Texas.

Board of Governors of the Federal Reserve System, January 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-1118 Filed 1-17-90; 8:45 am]

BILLING CODE 6210-01-M

Diamond State Bancorp, Inc., et al. Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 224.14) 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 February 7, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Diamond State Bancorp, Inc.*, Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Diamond State Bank, N.A., Dover, Delaware, a *de novo* bank.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 100 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Wayne Bancorp, Inc.*, Jesup, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Wayne National Bank, Jesup, Georgia, a *de novo* bank.

c. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Iowa National Bankshares Corp.*, Waterloo, Iowa; to acquire 100 percent of the voting shares of Monticello State Bank, Monticello, Iowa.

2. *Shelby Financial Corporation*, Shelby, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of the Shelby State Bank, Shelby, Michigan.

Board of Governors of the Federal Reserve System, January 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-1119 Filed 1-17-90; 8:45 am]

BILLING CODE 6210-01-M

Garden Plain Bancshares, Inc. Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

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, indentifying 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 February 8, 1990.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Garden Plain Bancshares, Inc.*, Garden Plain, Kansas; to engage *de novo* in the origination, purchase, and servicing of mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 11, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-1120 Filed 1-17-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Migrant Health

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North Building, Room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Mrs. Sonia M. Leon Reig, Executive Secretary, National Advisory Council on Migrant Health, Room 7A-30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1153.

Dated: January 11, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-1075 Filed 1-17-90; 8:45 am]

BILLING CODE 4160-15-M

Correction of Meeting Times

In Federal Register document 89–29602 appearing on page 52460 in the issue for Thursday, December 21, 1989, the January 29 meeting of the "Subcommittee on Physician Manpower of the Council on Graduate Medical Education" will be held from 1 p.m. until 5 p.m.; the January 29 meeting of the "Subcommittee on Minority Representations in Medicine of the Council on Graduate Medical Education" will be held from 7 p.m. until 11 p.m.; the meeting of the "Subcommittee on Medical Education Programs and Financing of the Council on Graduate Medical Education" will be held only on January 29; and meeting of the "Council on Graduate Medical Education" will adjourn at noon on January 31. All other information is correct as appears.

Dated: January 11, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90–1077 Filed 1–17–90; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Cancer Institute; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, January 29–30, 1990, Building 31C, Conference Room 10, 6th Floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or the 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.

Mrs. Winifred J. Lumsden, Committee Management Officer, National Cancer Institute, 9000 Rockville Pike, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and rosters of the Board members, upon request.

Name of Committee: Subcommittee on Cancer Centers
Executive Secretary: Dr. Brian Kimes, Executive Plaza North, Suite 300 Bethesda, MD 20892 (301) 496–8537
Date of Meeting: January 28
Place of Meeting: Building 31, Conference Room 7
Open: 7:00 p.m. to adjournment
Agenda: To discuss policy for the 5 year plan for cancer centers.

Name of Committee: National Cancer Advisory Board
Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03 Bethesda, MD 20892 (301) 496–5147
Date of Meeting: January 29–30
Place of Meeting: Building 31C, Conference Room 10
Open: January 29, 8:30 a.m. to recess January 30, approximately 1:00 p.m. to adjournment
Agenda: Reports on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; Subcommittee Reports; and New Business.

Name of Committee: Working Group of the Subcommittee on Agenda
Executive Secretary: Dr. Paulette S. Gray, Westwood Building, Room 852, Bethesda MD 20892 (301) 496–7173
Date of Meeting: January 29
Place of Meeting: Building 31, Room 10A03
Open: 12:00 p.m. to 1:00 p.m.
Agenda: Evaluation of Program Review meeting and overall evaluation of the NCAB meeting format.

Name of Committee: Subcommittee on Planning and Budget
Executive Secretary: Judith Whalen, Building 31, Room 11A23 Bethesda, MD 20892 (301) 496–5515
Date of Meeting: January 29
Place of Meeting: Building 31C, Conference Room 7
Open: January 29—Immediately following adjournment of the NCAB meeting.
Agenda: To discuss and plan other budget matters.

Name of Committee: AIDS Subcommittee
Executive Secretary: Dr. Joyce O'Shaughnessy, Building 31, Room 11A25 Bethesda, MD 20892 (301) 496–3505
Date of Meeting: January 29
Place of Meeting: Building 31C, Conference Room 8
Open: 6:00 p.m. to adjournment
Agenda: To discuss the highlights of the NCI AIDS program.

Name of Committee: Subcommittee on Special Actions for Grants
Executive Secretary: Mrs. Barbara Bynum, Building 31, Room 10A03 Bethesda, MD 20892 (301) 496–5147
Date of Meeting: January 30
Place of Meeting: Building 31C, Conference Room 10
Closed: 8:00 a.m. to approximately 1:00 p.m.
Agenda: Review and discussions of individual grant applications.

Catalog of Federal Domestic Assistance Program Numbers: (13.392, Project grants in cancer construction; 13.393, Project grants in cancer cause and prevention; 13.394, Project grants in cancer detection and diagnosis; 13.395, Project grants in cancer treatment; 13.396, Project grants in cancer biology; 13.397, Project grants in cancer centers support; 13.398, Project grants in cancer research manpower; and 13.399, Project grants and contracts in cancer control.)

Dated: January 9, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–1102 Filed 1–17–90; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–90–2087; FR—2695–N–01]

Section 202—Loans for Housing for Nonelderly Handicapped Families and Individuals—Cost Limits for Group Homes

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

ACTION: Notice of group home cost limits.

SUMMARY: Section 202 of the Housing Act of 1959 authorizes HUD to provide direct loans for the development of projects to serve elderly or handicapped families or individuals. On June 20, 1989, HUD published a final rule (54 FR 25960) implementing amendments to section 202 made by section 162 of the Housing and Community Development Act of 1987 Pub. L. 100–242, approved February 5, 1988). The amendments and the rule were designed to ensure that the Section 202 program will meet the special housing and related needs of nonelderly

handicapped families and individuals. Section 885.810(c)(2) of the final rule requires HUD to publish in the **Federal Register** cost limits reflecting those costs reasonable and necessary to develop group homes for nonelderly handicapped people under the Section 202 program. This Notice announces those cost limits.

DATES: *Effective Date*: January 18, 1990.
Comment Due Date: February 20, 1990.

ADDRESS: Interested persons are invited to submit comments on the Proposed Notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept public comments transmitted by facsimile ("FAX") machines. The telephone number of the FAX receiver is (202) 755–2775. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via the FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 755–7584)). (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Margaret Milner, Section 202 Housing for Handicapped People Staff, (202) 755–3287 (voice) or (202) 755–3938 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 202 of the Housing Act of 1959 authorizes HUD to provide direct loans for the development of projects to serve elderly or handicapped families or individuals. Section 162 of the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988) amended Section 202 of the Housing Act of 1959 to establish a separate program for housing for nonelderly handicapped people. HUD implemented this program in a final rule published June 20, 1989. (54 FR 25960). Under the new program, housing developed for nonelderly handicapped people may be either small apartment projects (generally up to 24 units) called "independent living complexes" or group homes for up to 15 residents with disabilities. Group homes are defined in 24 CFR 885.700 as single family residential structures designed or adapted for occupancy by nonelderly handicapped individuals.

In developing the regulations implementing section 162. The Department determined that the existing method for calculating the allowable development cost of a project was appropriate for independent living complexes. Under that method, a maximum amount is allowed for each dwelling unit, based on unit size by number of bedrooms and whether the building has an elevator. These unit costs are codified in 24 CFR 885.810, and include all costs of project development attributable to dwelling use, pro-rated by unit.

Group homes, however, represent a different type of development that is not analogous to the unit designations applicable to apartment projects. A group home has a single kitchen and common areas for living and dining activities. Bedrooms may have one or two occupants, depending on the programmatic needs determined by the residents' disabilities, and bathrooms are shared by up to four persons. Accordingly, the final rule requires HUD to develop and publish in the **Federal Register** separate cost limits for group home design.

These cost limits must reflect those costs reasonable and necessary to develop a project of modest design that complies with HUD minimum property standards; minimum group home requirements of § 885.717(b); the accessibility requirements of § 885.717(c); cost containment and modest design standards of § 885.725 and other design requirements applicable to group homes under Part 885. HUD is required to provide factors for adjusting the group home standard to reflect such factors as the design requirements of the handicapped population to be served and state and local requirements. To develop the cost limits, HUD is required to use commercially available construction cost indices and construction cost data for recently completed comparable group homes.

Today's notice announces the proposed group home cost limits. Although effective upon publication, the Department will consider changes to the cost limits based on the public comments received. These cost limits were developed in a two-step process. First, HUD contracted with an architectural firm experienced in the design of housing for people with disabilities. The architectural firm agreed to develop a group home design that met all of the program requirements. The basic design was to be a home for six residents, each in a private bedroom. The design was to be fully accessible to persons using wheelchairs and having other physical disabilities resulting in a functional limitation in access to and use of a building. This requirement was satisfied by using the Uniform Federal Accessibility Standards.

The basic design included an efficiency unit for a resident manager as well as an office; a central kitchen; living, activity and dining rooms; a central laundry area; bathrooms that included one with roll-in shower and one with tub; a central storage room with space for individual resident storage areas; and other necessary utility spaces. The architectural firm was required to develop appropriate adjustments for group homes serving more or fewer residents, and for homes designed for persons with chronic mental illness. In group homes for persons with chronic mental illness 10 percent of all bedrooms and bathrooms, but at least one of each such space, must be accessible or adaptable for persons with physical handicaps. The study produced a group home schematic design (using an actual group home site) and outline specifications.

In the second phase, the Department contracted with a firm experienced in estimating single-family construction cost. The firm provided an estimate of the development cost of the architectural firm's group home design. To develop estimates of cost for components of development cost in addition to construction and site improvements based on the design, the Department assembled detailed cost information on recently-constructed group homes. Because a large number of group homes have been funded in North Carolina in recent years, the Department was able to assemble actual cost certifications for 21 group homes completed there in the last two years.

The cost estimate prepared by the contractor included the following elements: (a) Structure costs based on the schematic design and outline specifications: (b) site improvements, using an actual site as the hypothetical site for the study: (c) overhead and fees: (d) land cost: (e) other costs, which include carrying charges and financing costs and legal and organizational costs. This estimate was prepared in the cost format used by HUD. Future evaluations of the cost limits will include consideration of the actual development

costs of group homes funded under the new program. HUD believes that use of the cost format will facilitate this future evaluation.

Appropriate cost adjustments were then developed for smaller and larger group homes, allowing for differences in gross square footage as well as additional costs for increases in kitchens and bathrooms and other extra costs such as doors, framing and windows associated with increasing the number of rooms in the larger homes. Group homes for more than six residents were planned for double-occupancy bedrooms. This reflects the Department's concern for maintaining the residential scale of group homes.

The result is a table of baseline costs for group homes equivalent to the baseline costs by unit size for elevator and nonelevator buildings used for apartment projects that are established in § 885.810(c)(1).

In both types of development the published baseline costs are adjusted by high-cost percentages developed annually for base cities in each of the HUD Field Office jurisdictions. These high cost percentages are established using a commercial construction cost index and provide both a time and location adjustment of the baseline costs. Field Offices are advised annually of the highcost percentages for base cities in their jurisdictions. Based on these percentages. Field Offices then develop appropriate adjustments for key cities in their jurisdictions.

Currently, baseline costs are indexed for each Field Office from a minimum of 119 percent to a maximum of 210 percent. The base cities and applicable 1989 percentages are:

	High cost percentage
Region I—Base City:	
Hartford CT	195
Bangor ME	162
Boston MA	207
Manchester NH	154
Providence RI	193
Burlington VT	158
Region II—Base City:	
Camden NJ	164
Newark NJ	203
Albany NY	169
Buffalo NY	165
New York NY	210
San Juan PR	129
Region III—Base City:	
Wilmington DE	171
Washington DC	164
Baltimore MD	161
Philadelphia PA	185
Pittsburgh PA	150
Richmond VA	144
Charleston WV	155
Region IV—Base City:	
Birmingham AL	129
Jacksonville FL	127
Miami FL	136
Tampa FL	120
Atlanta GA	131
Louisville KY	139
Jackson MS	132
Greensboro NC	139
Columbia SC	129
Knoxville TN	128
Memphis TN	131
Nashville TN	123
Region V—Base City:	
Chicago IL	156
Springfield IL	152
Indianapolis IN	148
Detroit MI	166
Grand Rapids MI	138
Minneapolis MN	161
Cincinnati OH	149
Cleveland OH	166
Columbus OH	147
Milwaukee WI	151
Region VI—Base City:	
Little Rock AR	119
New Orleans LA	137
Shreveport LA	124
Albuquerque NM	136
Oklahoma City OK	128
Tulsa OK	132
Dallas TX	139
Fort Worth TX	139
Houston TX	138
Lubbock TX	134
San Antonio TX	126
Region VII—Base City:	
Des Moines IA	135
Topeka KS	133
Kansas City MO	151
St. Louis MO	159
Omaha NE	136
Region VIII—Base City:	
Denver CO	147
Helena MT	136
Fargo ND	125
Sioux Falls SD	124
Salt Lake City UT	129
Casper WY	125
Region IX—Base City:	
Phoenix AZ	136
Los Angeles CA	180
Sacramento CA	173
San Diego CA	167
San Francisco CA	193
Honolulu HI (Sec. 214)	.....
Reno NV	156
Santa Ana CA	180
Region X—Base City:	
Anchorage AK (Sec. 214)	.....
Boise ID	140
Portland OR	144
Seattle WA	153
Spokane WA	150

As an example, applying these high cost percentages to a group home for seven residents with developmental disabilities or physical handicaps would result in a cost limit of $190,066 in the base city with the lowest percentage (119 percent). The maximum amount for a group home of that size and type would be $335,412 in the city with the highest percentage (210 percent).

GROUP HOME COST LIMITS

Number of residents	Homes for persons with—	
	Physical handicaps or developmental disabilities	Chronic mental illness
4	$137,730	$131,980
5	146,750	139,715
6	155,760	147,450
7	159,720	151,145
8	163,680	154,840
9	170,840	160,920
10	178,800	167,700
11	185,160	173,070
12	192,320	179,150
13	199,920	185,380
14	207,510	191,610
15	215,100	197,830

Application

HUD Field Offices will apply the cost limits in accordance with the following:

1. The cost limits include all basic allowable costs—

(a) Cost of construction of the structure;

(b) Land;

(c) Site improvements;

(d) Overhead and fees; and

(e) Other costs, including all costs classified as carrying charges and financing; legal and organization costs; cost certification audit fees; and supplemental management fund.

2. HUD Field Offices may adjust cost limits up to the authorized high-cost percentage applicable to the locality.

3. Group homes which are licensed by state agencies (e.g., Intermediate Care Facilities for residents with developmental disabilities which are licensed by the State Medicaid agency) may have additional funding approved to cover the cost of sprinkler systems that are required for licensing.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 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 am to 5:30 pm) in the Office of the Rules Docket Clerk. Office of the General Counsel. Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

The General Counsel, as the Designated Official under Executive Order No. 12606—The Family, has determined that this notice will likely have a significant impact on family

formation, maintenance or well-being. The section 202 program of housing for handicapped families and individuals will assist eligible handicapped families to afford decent, safe and sanitary housing and services appropriate for dealing with their specialized needs.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611—Federalism, has determined that this notice does not involve the preemption of State law by Federal statute or regulation and does not have federalism implications.

Authority: Section 202, Housing Act of 1959 (12 U.S.C. 1701(q)); sec. 8, United States Housing Act of 1987 (42 U.S.C. 1437(f)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: January 8, 1990.

Peter Monroe,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commission.

[FR Doc. 90-1105 Filed 1-17-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-0-4410-12]

1989 Amendment Review of California Desert Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction and amendment notice.

SUMMARY: In the Federal Register of October 12, 1989 (Vol. 53, p. 4082), a Notice of Availability was published which summarized the proposed 1989 amendments to the California Desert Conservation Area Plan. However, the title should have also contained a Notice of Intent to prepare an EIS for the 1989 Plan Amendments. The earlier Federal Register notice is amended to remove two proposals and to add four proposals for reveiw. The amendments to be removed are: (1.) modification of the Barstow to Las Vegas motorcycle race, and (2.) adjustment of the multiple-use class designation for consistency with tortoise habitate categories. The four new amendments include three proposed ACECs—Kelso Dunes, Turtle Mountains, and Algodones Dunes—and a deletion of four competitive racing routes—Barstow to Las Vegas, Johnson Valley to Parker, Parker "400" and Stoddard Valley to Johnson Valley—from the California Desert Plan. There are now twenty-one amendments to be reviewed in the EIS. Written comments on the proposed three additonal ACECs and proposed deletion of the four competitive race routes will be accepted from the public until February 22, 1990 days after the Desert Advisory Council meeting. A review of the amendments will be held at the Desert Advisory Council Meeting, tentatively scheduled for March 22-24. The exact location and time will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

Dated: January 11, 1990.

H.W. Riecken,

Acting District Manager.

[FR Doc. 90-1121 Filed 1-17-90; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF INTERIOR

[AZ-010-4322-02; 1784-010]

Arizona Strip District Advisory Board; Meeting

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet Tuesday, February 13, 1990 at 9 a.m. in the Holiday Inn, 850 South Bluff Street in St. George, Utah. Primary topics on the agenda are range improvement projects and range management concerns.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770 (Phone 801/673-3545).

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any person may attend, file a written statement by mail, or appear before the Board at 9:30 a.m.

G. William Lamb,

Arizona Strip District Manager.

January 4, 1990.

[FR Doc. 90-1108 Filed 1-17-90; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF THE INTERIOR

[CO-010-00-4320-02]

Craig District Grazing Advisory Board Meeting

Time and Date: February 15, 1990, at 10 a.m.

Place: BLM-Craig District Office, 455 Emerson Street, Craig, Colorado.

Status: Open to public; interested persons may make oral statements between 10 a.m. and 11 a.m., or may file written statements.

Matters to be Considered:

1. Riparian task force update
2. Little Snake Coordinated Management Plan
3. Status report on FY '90 range improvement projects
4. Area reports
5. Expenditures of Grazing Advisory Board funds

Contact Person for More Information: John Denker, Craig District Office, 455 Emerson Street, Craig, Colorado 81625-1129, Phone: (303) 824-8261.

William J. Pulford,

District Manager.

Dated: January 8, 1990.

[FR Doc. 90-1109 Filed 1-17-90; 8:45 am]

BILLING CODE 4310-JB-M

INTERNATIONAL TRADE COMMISSION

Review of the Harmonized Tariff Schedule of the United States

AGENCY: United States International Trade Commission.

ACTION: Publication of proposed changes to the Harmonized Tariff Schedule of the United States (HTS).

SUMMARY: The purpose of this notice is to publish certain proposed changes to the Harmonized Tariff Schedule and to solicit comments from other Federal agencies and the public, as required by section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (the Act), relating to the continuous review of the HTS by the United States International Trade Commission.

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (202-252-1592) or Dave Beck, Chief, Nomenclature Division (202-252-1604).

Background: Section 1205 of the Act (19 U.S.C. 3005) directs the United States International Trade Commission to keep the Harmonized Tariff Schedule of the United States under continuous review. The Commission is directed to recommend modifications to the HTS when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System), done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986 (Convention), are recommended by the Customs Cooperation Council (Council) for

adoption, and (2) as other circumstances warrant.

During its last session, held in July 1989 in Washington, DC, the Council recommended certain amendments to the nomenclature of the International Harmonized System, in accordance with Article 16 of the Convention. This notice includes those changes proposed for the HTS in order to conform it with the Council's recommendations. The modifications were recommended by the Harmonized System Committee.

Interested parties may submit written comments to the Commission concerning these proposed changes to the HTS. An original and fourteen (14) copies should be submitted to the Director, Office of Tariff Affairs and Trade Agreements, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. All comments should be submitted to the Commission not later than noon, February 16, 1990.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252–1810.

By order of the Commission.

Issued January 8, 1990.

Kenneth R. Mason,

Secretary.

1. Subparagraph (b) of rule 5 of the General Rule of Interpretation is amended by deleting the expression "does not apply" and substituting the expression "is not binding" in lieu thereof.

2. The following new note 2 to chapter 3 is inserted:

"2. In this chapter the term *"pellets"* means products which have been agglomerated either directly by compression or by the addition of a small quantity of binder."

3. The article description for heading 0305 is amended by deleting the expression "fish meal" and substituting the expression "flours, meals and pellets of fish," in lieu thereof.

4. The article description for subheading 0305.10 is amended by deleting the expression "fish meal" and substituting the expression "flours, meals and pellets of fish," in lieu thereof.

5. The article description for heading 0306 is amended by inserting after the word "brine" and before the colon the expression "; flours, meals and pellets of crustaceans, fit for human consumption".

6. The article description for subheading 0306.19.00 is deleted and the following is substituted in lieu thereof:

"Other, including flours, meals and pellets of crustaceans, fit for human consumption"

7. The article description for subheading 0306.29.00 is deleted and the following is substituted in lieu thereof:

"Other, including flours, meals and pellets of crustaceans, fit for human consumption"

8. The article description for heading 0307 is amended by inserting after the word "brine" and before the colon the expression "; flours, meals and pellets of crustaceans, fit for human consumption".

9. The superior heading, "Other:", immediately preceding subheading 0307.91.00 is deleted and the following substituted in lieu thereof:

"Other, including flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption:"

10. The following new note 3 to chapter 4 is inserted:

"3. This chapter does not cover:

(a) Products obtained from whey, containing by weight more than 95 percent lactose, expressed as anhydrous lactose calculated on the dry matter (heading 1702); or

(b) Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 percent whey proteins, calculated on the dry matter) (heading 3502) or globulins (heading 3504)."

11. The following new subheading note 1 to chapter 4 is inserted:

"Subheading Note

1. For the purpose of subheading 0404.10, the expression *"modified whey"* means products consisting of whey constituents, i.e., whey from which all or part of the lactose or minerals have been removed, whey to which natural whey constituents have been added, and products obtained by mixing natural whey constituents."

12. The article description for subheading 0404.10 is deleted and the following substituted in lieu thereof:

"Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter"

13. New subheadings 0404.10.05, 0404.10.07, and 0404.10.09 are inserted, and conforming changes to the structured nomenclature are made, as follows:

[0404.10	Whey and modified whey, whether or not concentrated or containing added sugar or other sweetening matter:].					
0404.10.05	Modified whey: Whey protein concentrates	kg	10 percent	Free (A, E, IL), 8 percent (CA), 0.3¢/kg (CA)		20 percent
0404.10.07	Other: Containing over 5.5 percent by weight of butterfat and not packaged for retail sale.	kg	16 percent	Free (E, IL), 12.8 percent (CA)		20 percent
0404.10.09	Other	kg	10 percent	Free (E, IL), 8 percent (CA)		20 percent
[0404.10.20	Other: Fluid].					
[0404.10.40	Dried].					

14. Subheadings 0404.90.05, 0404.90.40, and 0404.90.60 are deleted.

15. The article description for subheading 0406.10.00 is deleted and the following substituted in lieu thereof:

"Fresh (unripened or uncured) cheese, including whey cheese, and curd"

16. Note 3(c) to chapter 7 is deleted and the following substituted in lieu thereof:

"(c) Flour, meal, flakes, granules and pellets of potatoes (heading 1105);"

17. The following new note 3 to chapter 8 is inserted:

"3. Dried fruit or dried nuts of this chapter may be partially rehydrated, or treated for the following purposes:

(a) For additional preservation or stabilization (e.g., by moderate heat treatment, sulfuring, the addition of sorbic acid or potassium sorbate),

(b) To improve or maintain their appearance (e.g., by the addition of vegetable oil or small quantities of glucose syrup),

provided that they retain the character of dried fruit or dried nuts."

18. The article description for heading 0902 is deleted and the following substituted in lieu thereof:

"Tea, whether or not flavored:"

19. Subheadings 0902.10.00 and 0902.20.00 are deleted and the following substituted in lieu thereof:

"0902.10	Green tea (not fermented) in immediate packings of a content not exceeding 3 kg:.					
0902.10.10	Flavored	kg	10 percent	Free (A, E, IL), 6 percent (CA)		20 percent
0902.10.90	Other	kg	Free			Free
0902.20	Other green tea (not fermented):					
0902.20.10	Flavored	kg	10 percent	Free (A, E, IL), 6 percent (CA)		20 percent
0902.20.90	Other	kg	Free			Free"

20. The article description for heading 0909 is deleted and the following substituted in lieu thereof:

"Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries:"

21. The article description for subheading 0909.50.00 is deleted and the following substituted in lieu thereof:

"Seeds of fennel; juniper berries"

22. The article description for heading 1105 is delted and the following substituted in lieu thereof:

"Flour, meal, flakes, granules and pellets of potatoes:"

23. The article description for subheading 1105.20.00 is deleted and the following substituted in lieu thereof:

"Flakes, granules and pellets"

24. The superior heading, "Industrial monocarboxylic fatty acids:", immediately preceding subheading 1519.11.00 is deleted and the following substituted in lieu thereof:

"Industrial monocarboxylic fatty acids; acid oils from refining:"

25. Subheading 1519.20.00, "Acid oils from refining", is deleted.

26. Subheading 1519.30, "Industrial fatty alcohols:" is renumbered as 1519.20.

27. The article description for subheading 1604.14 is deleted and the following substituted in lieu thereof:

"Tunas, skipjack and bonito (*Sarda* spp.):"

28. The article description for the superior heading immediately preceding subheading 1604.14.70 is amended by deleting the expression "Atlantic bonito:" and substituting "Bonito:" in lieu thereof.

29. The article description for subheading 1806.20 is amended by deleting the expression "blocks or slabs" and substituting the expression "blocks, slabs or bars" in lieu thereof.

30. Note 2 to chapter 19 is deleted and the following substitute in lieu thereof:

"2. For the purposes of heading 1901, the terms "*flour*" and "*meal*" mean:

(a) Cereal flour and meal of chapter 11, and

(b) Flour, meal and powder of vegetable origin of any chapter, other than flour, meal or powder of dried vegetables (heading 0712), of potatoes (heading 1105) or of dried leguminous vegetables (heading 1106)."

31. Present notes 1(c) to 1(g) to chapter 21 are redesignated as 1(d) to 1(h), respectively, and the following new note 1(c) is inserted:

"(c) Flavored tea (heading 0902);"

32. Present notes 1(a) to 1(e) to chapter 22 are redesignated as 1(b) to 1(f), respectively, and the following new note 1(a) is inserted:

"(a) Products of this chapter (other than those of heading 2209) prepared for culinary purposes and thereby rendered unsuitable for consumption as beverages (generally heading 2103);"

33. The article description for heading 2206.00 is deleted and the following substituted in lieu thereof:

"Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages not elsewhere specified or included:"

34. The article description for heading 2501.00.00 is amended by deleting the expression "whether or not in aqueous solution" and substituting the expression "whether or not in aqueous solution or containing added anticaking or free-flowing agents" in lieu thereof.

35. The article description for subheading 2528.10.00 is deleted and the following substituted in lieu thereof:

"Natural sodium borates and concentrates thereof (whether or not calcined)"

"36. Note 6(d) to chapter 28 is amended by deleted the expression "0.002 microcurie per gram;" and substituting the expression "74 becquerels per gram (0.002 microcurie per gram);"

37. The article description for heading 2818 is deleted and the following substituted in lieu thereof:

"Artificial corundum, whether or not chemically defined; aluminum oxide; aluminum hydroxide:"

38. The article description for subheading 2818.10 is deleted and the following substituted in lieu thereof:

"Artificial corundum, whether or not chemically defined:"

39. The article description for subheading 2818.20.00 is deleted and the following substituted in lieu thereof:

"Aluminum oxide, other than artificial corundum"

40. The article description for subheading 2850.00 is deleted and the following substituted in lieu thereof:

"Hydrides, nitrides, azides, silicides and borides, whether or not chemically defined, other than compounds which are also carbides of heading 2849:"

41. Note 5(b) (second paragraph) to chapter 34 is amended by inserting the expression "refined or" between the words "not" and "colored".

42. The article description for heading 3502 is deleted and the following substituted in lieu thereof:

"Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 percent whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:"

43. The article description for subheading 3707.10.00 is deleted and the following substituted in lieu thereof:

"Sensitizing emulsions"

44. The article description for subheading 3806.10.00 is deleted and the following substituted in lieu thereof:

"Rosin and resin acids"

45. The article description for subheading 3809.91.00 is deleted and the following substituted in lieu thereof:

"Of a kind used in the textile or like industries"

46. The article description for subheading 3809.92 is deleted and the following substituted in lieu thereof:

"Of a kind used in the paper or like industries:"

47. The article description for subheading 3809.99 is deleted and the following substituted in lieu thereof:

"Of a kind used in the leather or like industries:"

48. The article description for heading 4202 is amended (1) by deleting the expression "of plastic sheeting" and substituting the expression "of sheeting of plastics" in lieu thereof; and (2) by deleting the expression "with such materials" and substituting the expression "with such materials or with paper" in lieu thereof.

49. The article description for subheading 4820.30.00 is deleted and the following substituted in lieu thereof:

"Binders (other than book covers), folders and file covers"

50. The following new second paragraph is inserted in note 2(A) to section XI:

"When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration."

51. Note 7(a)(iv) to chapter 59 is amended by deleting the word "fabric" and substituting the word "fabrics" in lieu thereof.

52. The article description for subheading 5911.10 is deleted and the following substituted in lieu thereof:

"Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather or other material, of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes:

53. Note 8 to chapter 61 is deleted and the following substitutes in lieu thereof:

"8. Garments of this chapter designed for left over right closures at the front shall be regarded as men's or boys' garments, and those designed for right over left closure at the front as women's or girls' garments. These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes.

Garments which cannot be identified as either men's or boys' garfments or as women's or girls' garments are to be classified in the headings covering women's or girls' garments."

54. Note 8 to chapter 62 is deleted and the following substitutes in lieu thereof:

"8. Garments of this chapter designed for left over right closure at the front shall be regarded as men's or boys' garments, and those designed for right over left closure at the front as women's or girls' garments. These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes.

Garments which cannot be identified as either men's or boys' garments or as women's or girls' garments are to be classified in the headings covering women's or girls' garments."

55. The article description for heading 6406 is deleted and the following substituted in lieu thereof:

"Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof:

56. Note 3(c) to chapter 71 is deleted and the following substituted in lieu thereof:

"(c) Goods of chapter 32 (for example, lustres);"

57. Note 3(n) to chapter 71 is deleted and the following substituted in lieu thereof:

"(n) Articles classified in chapter 96 by virtue of note 4 to that chapter;"

58. The article description for subheading 7308.40.00 is deleted and the following substituted in lieu thereof:

"Equipment for scaffolding, shuttering, propping or pit-propping"

59. The article descriptiuon for heading 8416 is deleted and the following substituted in lieu thereof:

"Furnace burners for liquid fuel, for pulverized solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances; parts thereof:"

60. The article description for subheading 8416.30.00 is deleted and the following substituted in lieu thereof:

"Mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances"

61. The article description for heading 8426 is amended by deleting the word "Derricks" and substituting the expression "Ships' derricks" in lieu thereof.

62. The article description for heading 8470 is deleted and the following substituted in lieu thereof:

"Calculating machines; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers:"

63. The article description for heading 8521 is deleted and the following substituted in lieu thereof:

"Video recording or reproducting apparatus, whether or not incorporating a video tuner:"

64. The article description for heading 8528 and subheadings 8528.10.40 and 8528.10.80 are deleted and the following substituted in lieu thereof:

"8528	Television receivers (including video monitors and video projectors), whether or not incorporating radiobroadcast receivers or sound or video recording or reproducting apparatus:.				
8528.10	Color	No	5 percent	Free (B,E,IL), 4.5 percent (CA)	35 percent"

65. Note 3 to chapter 87 is deleted, and notes 4 and 5 to chapter 87 are renumbered as notes 3 and 4, respectively.

66. The article description for heading 8702 is deleted and the following substituted in lieu thereof:

"Motor vehicles for the transport of ten or more persons, including the driver:

67. Present notes 1(b) to 1(l) to chapter 90 are redesignated as 1(c) to 1(m), respectively, and the following new note 1(b) is inserted:

(b) "Supporting belts or other support articles of textile material, whose intended effect on the organ to be supported or held derives solely from their elasticity (for example, maternity belts, thoracic support bandages, abdominal support bandages, supports for joints or muscles) (section XI);"

68. The superior heading, "Thermometers, not combined with other instruments:", immediately preceding subheading 9025.11, is deleted and the following substituted in lieu thereof:

"Thermometers and pyrometers, not combined with other instruments:"

69. Subheading 9025.19.00 is deleted and the following subheadings are substituted in lieu thereof:

"[9025	Hydrometers and similar floating, etc.:]. [Thermometers, not combined, etc.:].				
[9025.11	Liquid-filled, etc.:].				
	•	•	•	•	•
9025.19	Other:				
9025.19.40	Pyrometers	No	3.9 percent	Free (A,C,E,IL), 3.1 percent (CA)	45 percent
9025.19.80	Other	No	5 percent	Free (A*,B,C,E,IL), 7.5 percent) (CA)	40 percent"

70. The article description for subheading 9025.80.30 is amended by deleting ", psychormeteres" and substituting "psychrometers" in lieu thereof.

71. The article description for heading 9029 is amended by deleting the expression "of heading 9015;" and substituting the expression "of heading 9014 or 9015;" in lieu thereof.

72. In note 1 to chapter 92—

(a) subparagraph (d) is amended by inserting the word "or" immediately following the semicolon.

(b) subparagraph (e) is amended by deleting the expression "9706); or" and substituting the expression "9706)." in lieu thereof.

(c) subparagraph (f) is deleted.

73. The article description for heading 9506 is amended by deleting the expression "for gymnastics," and substituting the expression "for general physical exercise, gymnastics," in lieu thereof.

74. The article description for subheading 9506.91.00 is deleted and the following substituted in lieu thereof:

"Articles and equipment for general physical exercise, gymnastics or athletics; parts and accessories thereof:

75. The article description for subheading 9603.21.00 is deleted and the following substituted in lieu thereof:

"Toothbrushes, including dental-plate brushes"

76. In note 5 to chapter 97—

(a) the expression "are to be treated as forming part of" is deleted and the expression" are to be classified with" substituted in lieu thereof; and

(b) the following new second sentence is inserted:

"Frames which are not of a kind or of a value normal to the articles referred to in this note are to be classified separately."

FR Doc. 90–1129 Filed 1–17–90; 8:45 am]

BILLING CODE 7020–02–M

Possible Modifications to the International Harmonized System Nomenclature

AGENCY: United States International Trade Commission.

ACTION: Schedule of review for possible changes in international 6-digit subheadings of Harmonized Commodity Description and Coding System (Harmonized System), and request for submissions.

SUMMARY: Through this notice the Commission is soliciting views and comments from interested parties and agencies concerning problems in the interpretation and application of the international Harmonized System, including the nomenclature, rules of interpretation, and chapter notes. Specific proposals thereon will be reviewed by the Commission for potential submission to the Customs Cooperation Council (CCC). The notice also set forth the CCC's schedule of review of HS chapters in order to priority.

EFFECTIVE DATE: November 27, 1989.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (202–252–1952), or David Beck, Chief, Nomenclature Division (202–252–1604). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

Background: This notice announces the schedule of the Review Subcommittee of the Harmonized System Committee of the CCC for consideration and possible revision of the international nomenclature of the Harmonized System and seeks the views of interested parties for use in developing U.S. proposals for changes in that nomenclature system. The Commission previously issued a similar notice limited to the nomenclature of Harmonized System chapters 84, 85 and 90 (54 FR 30284 of July 19, 1989), which will be taken up by the Review Subcommittee at its January 1990 meeting. This notice does not institute a formal Commission investigation but instead is issued pursuant to the Commission's continuing authority (jointly with the Customs Service and the Bureau of Census) to develop technical proposals, as set forth in section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (the Act). The Commission is the lead agency in considering amendments to the Harmonized System nomenclature, according to a notice issued by the United States Trade Representative (53 FR 45646 of November 10, 1988).

The comments being sought by the Commission are limited to statements of problems and specific proposals for changes in the Harmonized System, including the General Rules of Interpretation, the international chapter notes (notes) and the nomenclature through and including the 6-digit level. They should be prepared with a view toward insuring that the Harmonized System keeps abreast of changes in technology and in patterns of international trade. No proposals for changes in the Explanatory Notes (taken up by the Harmonized System Committee separately) or in national-level provisions (including U.S. 8-digit subheadings, statistical reporting numbers, and rates of duty) will be considered by the Commission during this process. Such matters may be raised through the Commission's continuous review procedures, as provided under section 1205 of the Act, as described in the Commission's April 12, 1989 notice (54 FR 16007).

Schedule for Review

The Review Subcommittee will meet semiannually to examine the chapters of the Harmonized System according to the following priorities:

Chapters 84, 85 and 90
Chapters 50 through 63
Chapters 41 through 49
Chapters 26 and 71 through 83
Chapters 64 through 67
Chapters 86 through 89
Chapters 1 through 24
Chapters 27 through 40
Chapters 25 and 68 through 70
Chapters 91 through 97

The Review Subcommittee will make recommendations to the Harmonized System Committee, which in turn will submit the decisions to the Council for final approval in mid-1993. Those modifications adopted by the Council would enter into force on January 1, 1996.

Request for Proposals

The Review Subcommittee's deadline for comments by the contracting parties on chapters 84, 85 and 90 has already passed. In regard to chapters 50 through 63, proposals from interested parties and agencies for amendments should be received by the Commission by no later than the close of business on May 21, 1990. The Commission will receive and consider submissions relating to the remaining chapters beginning immediately and continuing until the deadlines to be announced in future notices.

Written Submissions

Interested parties may file written submissions by the above date. A signed original and fourteen (14) copies should be filed with the Secretary to the Commission. All written submissions except for confidential business information will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretarty to the Commission.

Any information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Issued: January 5, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-1128 Filed 1-17-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-301]

Certain Imported Artificial Breast Prostheses and Manufacturing Processes Thereof; Initial Determination Terminating Respondents on Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Coloplast A/S, Coloplast Industries S.A.R.L., Hemispheres Marketing Co., Ltd. Jobst Institute, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 9, 1990.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

Issued: January 9, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-247 Filed 1-17-90; 8:45 am]

BILLING CODE 7020-20-M

[Investigation No. 337-TA-301]

Certain Imported Breast Prostheses and the Manufacturing Processes Thereof

Notice is hereby given that the prehearing conference in this matter will commence at 9 a.m. on January 24, 1990, in Courtroom C (Room 217), U.S. International Trade Commission Building, 500 E St. SW., Washington, DC and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the Federal Register.

Issued: January 11, 1990.

Janet D. Saxon,

Chief Administrative Law Judge.

[FR Doc. 90-1125 Filed 1-17-90; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-286]

Conditions of Competition Between U.S. and Mexican Fabricated Automotive Glass in U.S. Market

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of a hearing.

SUMMARY: Following receipt on December 27, 1989, of a request from the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332-286 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). As requested by USTR, the Commission will report to the President on the conditions of competition in the U.S. market between U.S. and Mexican fabricated automotive glass—specifically whether (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded if the outstanding countervailing duty order on fabricated automotive glass from Mexico (50 FR 1906) were revoked by the Department of Commerce. In conducting its investigation, the Commission, as requested by USTR, will inquire into the following elements: (i) the volume of imports of the merchandise that is the subject of investigation, (ii) the effect of imports of the merchandise on prices in the United States for like products and (iii) the impact of such imports on domestic producers of like products. As indicated by USTR, the terms used above are defined at 19 U.S.C. 1677. Fabricated automotive glass is provided for in subheadings 7007.11.00, 7007.19.00, 7007.21.10, and 7007.21.50 of the Harmonized Tariff Schedule of the United States (HTS).[1] In accordance with USTR's request, the Commission will submit its report to the President within 150 days of the date of the request.

EFFECTIVE DATE: December 26, 1989.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-252-1187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Public Hearing

The Commission will hold a public hearing in connection with this investigation beginning at 9:30 a.m. on April 12, 1990, 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 on March 27, 1990. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 29, 1990, at the U.S. International Trade Commission Building. Any written materials submitted at the hearing for which confidential treatment is sought must be filed in accordance with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6)

Written Submissions

Interested persons are invited to submit written statements in the form of one prehearing and/or one posthearing statement (as described below) concerning the investigation, in lieu of, or in addition to, appearances at the public hearing. Commercial or financial information that a submitter desires that the Commission 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 (19 CFR 201.6). Following submission of its report to the President, the Commission will transmit to USTR the information that provided the basis for the report (including confidential business information). USTR has indicated that it will forward the information to the Department of Commerce, which may release some confidential information under protective order.

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 confidential business information 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.

Persons who intend to submit a written statement to the Commission should so inform the Secretary of the Commission no later than the close of business on March 27, 1990. To be assured of consideration by the Commission, a prehearing statement should be submitted not later than the close of business on April 6, 1990. Posthearing statements must be submitted not later than the close of business on April 18, 1990.

The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who have requested an opportunity to appear at the public hearing or who have indicated an intention to submit a written statement. The service list will be made available to the public on March 29, 1990. The Commission encourages all persons or counsel therefor filing a written statement with the Commission to serve a nonconfidential copy of such statement on each person on the service list.

Issued: Janaury 10, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-1127 Filed 1-17-90; 8:45 am]

BILLING CODE 7020-02-M

[1] The subject glass is classified for tariff purposes as safety glass consisting of toughened (tempered) or laminated glass, of size and shape suitable for incorporation in vehicles, aircraft, spacecraft or vessels; this investigation covers such glass for motor vehicles of chapter 87 of the HTS.

[Investigation No. 337-TA-293]

Certain Crystalline Cefadroxil Monohydrate; Issuance of a Temporary Limited Exclusion Order and Temporary Cease and Desist Orders and Amendment of the Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has issued a temporary limited exclusion order and temporary cease and desist orders and has amended the notice of investigation in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1087.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as amended by the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418 (Aug. 23, 1988), and in §§ 210.24 and 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.24, 210.58).

On February 1, 1989, Bristol-Myers Company (since renamed Bristol-Myers Squibb Company) filed a complaint and a motion for temporary relief with the Commission alleging violations of section 337 in the importation and sale of certain crystalline cefadroxil monohydrate. The complaint alleged infringement of claim 1 of U.S. Letters Patent 4,504,657 owned by Bristol-Myers.

Pursuant to Commission interim rule 210.24(e)(8), the Commission provisionally accepted Bristol-Myers's motion for temporary relief on March 8, 1989. The Commission also instituted an investigation into the allegations of Bristol-Myers's complaint and published a notice of investigation in the Federal Register. 54 FR 10740 (March 15, 1989). The notice named the following respondents: (1) Biocraft Laboratories, Inc. of Elmwood Park, NJ (2) Gema, S.A. of Barcelona, Spain; (3) Kalipharma, Inc. of Elizabeth, NJ; (4) Purepac Pharmaceutical Co. of Elizabeth, NJ; (5) Instituto Biochimico Italiano Industria Giovanni Lorenzini S.p.A. of Milan, Italy; and (6) Institut Biochimique, S.A. of Massagno, Switzerland.

On May 13, 1989, the presiding administrative law judge ("ALJ") issued an initial determination ("ID") denying Bristol-Myers's motion for temporary relief. On June 13, 1989, the Commission issued a determination refusing to modify or vacate the ID insofar as it denied that motion. Bristol-Myers appealed the Commission's determination to the United States Court of Appeals for the Federal Circuit. On December 8, 1989, the Federal Circuit issued a decision reversing the Commission's determination. *Bristol-Myers Co.* v. *USITC*, App. No. 89–1530 (Fed. Cir. Dec. 8, 1989). The Federal Circuit's mandate issued on December 29, 1989. The Federal Circuit determined that Bristol-Myers had established that there is reason to believe that there is a violation of section 337 in the importation, sale for importation, or sale in the United States of the accused crystalline cefadroxil monohydrate, and that the public interest supports issuance of temporary relief. The Federal Circuit's decision effectively directed the Commission to grant temporary relief to Bristol-Myers.

Immediately after issuance of the Federal Circuit's decision, the Commission solicited and received from the parties comments on the issues of temporary relief and bonding not resolved by the decision. Having considered the Federal Circuit's decision, the parties' comments, and the record in this investigation, the Commission determined that a temporary limited exclusion order and temporary cease and desist orders directed to all U.S. respondents are the appropriate form of temporary relief. The issuance of temporary relief is not subject to the posting of bond by complainant. The Commission determined that the public interest factors enumerated in 19 U.S.C. 1337(e) and (f) do not preclude the issuance of temporary relief. The Commission further determined that respondent's bond under the temporary limited exclusion order and the temporary cease and desist orders shall be in the amount of sixty-eight (68) percent of the entered value of the imported articles.

Pursuant to a motion by complainant, the Commission also determined to amend the notice of investigation in this investigation to reflect complainant's change of name from "Bristol-Myers Company" to "Bristol-Myers Squibb Company."

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

Issued: January 10, 1990.
By order of the Commission.

Kenneth R. Mason,
Secretary

[FR Doc. 90–1126 Filed 1–17–90; 8:45 am]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub-No. 79X)]

Central of Georgia Railroad Co.; Discontinuance of Service Exemption—in Crawford and Peach Counties, GA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903–1904 the discontinuance of service by Central of Georgia Railroad Company over a line of railroad extending between Roberta (milepost 90.44–FV) and Ft. Valley (milepost 105.3–FV), a distance of 14.86 miles, in Crawford and Peach Counties, GA, subject to standard labor protective conditions. Ogeechee Railway Company has been granted an exemption to lease and operate the line in Finance Docket No. 31490, *Ogeechee Railway Company—Lease and Operation Exemption—Southern Railway Company* (not printed), served July 31, 1989, and is prepared to begin operations over the line.

DATES: This exemption will be effective on January 21, 1990. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by January 22, 1990; and petitions for reconsideration must be filed by February 13, 1990.

ADDRESSES: Send pleadings, referring to Docket No. AB–290 (Sub–No. 79X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: F. Blair Wimbush, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245, [TDD for hearing impaired: (202) 275–1721.]

[1] *See Exempt. of Rail Abandonment—Offers of Financ. Assist.*, 4 I.C.C.2d 164 (1987).

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 Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TTD services (202) 275–1721.]

Decided: January 10, 1990.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90–1160 Filed 1–17–90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–55 (Sub-No. 337X)]

CSX Transportation, Inc.—Abandonment Exemption—In Hillsborough County, FL

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 0.38-mile line of railroad between mileposts S–843.17 and S–843.55, at Tampa, Hillsborough County, FL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 17, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by January 29, 1990.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by February 7, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by January 23, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 10 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–1034 Filed 1–17–90; 8:45 am]

BILLING CODE 7035-01-M

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Deepwater, Aramid Mooring Line Joint Industry Project; Phase One Extension; Omega Marine Services International Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, written notice has been filed on November 13, 1989, by Omega Marine services International, Inc. ("OMSI") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the addition of a new party and the deletion of former parties to the project and (2) the nature and objectives of the project extension. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project, and its general areas of planned activities, are given below.

The planned activities consist of an extension to the first phase of OMSI's Deepwater, Aramid Mooring Line Joint Industry Project which began in January 1989. The following party has joined the project: Texaco, Inc. The following are no longer participants in the venture: BP-Exploration and Conoco, Inc.

The purpose of the phase one extension is to continue the comparisons of all-steel deepwater mooring lines to aramid-fiber rope mooring lines, begun in phase one, utilizing taut-leg-spring-bouy mooring systems as an alternative to the catenary mooring systems used in phase one. The phase one extension also aims to assess the feasibility and cost of achieving a tighter watch circle, to extend the preferred mooring design to a water depth of 10,000 feet, and to examine the merits of towing assembled deepwater moorings to their fixed site using multiple buoys.

The participants in the phase one extension will develop designs for taut-leg-spring-buoy moorings and analyze the relative costs and performance at different water depths using both all-steel and aramid lines. The results will be compared to similar studies conducted with catenary systems in phase one.

On January 25, 1989, OMSI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal

Register pursuant to section 6(b) of the Act on March 1, 1989, 54 FR 8606–07.

Joseph H. Widmar.

Director of Operations, Antitrust Division.

[FR Doc. 90–1143 Filed 1–17–90; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decrees; Union Carbide Chemical and Plastics Company

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that two proposed consent decrees in *United States* v. *Union Carbide Chemicals and Plastics Company, Inc. ("UCC"), et al.*, Civil Action No. 89–05336, heve been lodged with the United States District Court for the District of New Jersey in Trenton on December 18, 1989. The consent decrees concern cleanup of a hazardous waste site known as the Reich Farm Site, which is located in Dover Township, Ocean County, New Jersey. The first consent decree requires UCC to perform a cleanup at the Site, and pay certain United States Envirnmental Protection Agency costs. The second consent decree requires the landowners of the Site, Samuel Reich, Bertha Reich and Rose Singer, to provide access to the Site for purposes of performing the cleanup.

The Department of Justice will receive for a period of thirty (30) days from January 18, 1990 comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Deparment of Justice, Washington, DC 20530, and should refer to *United States* v. *Union Carbide Chemicals and Plastics Company, Inc.*, D.J. Ref. 90–11–2–458.

The consent decrees may be examined at the office of the United States Attorney, District of New Jersey, Federal Building, 970 Broad Street, Room 502, Newark, New Jersey, 07102; at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York, 10278; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW, Washington, DC 20530. A copy of the proposed Censent Decrees can be obtained in person or by mail from the Department of Justice. In requesting a copy, please enclose a check in the amount of $5.10 (10 cents per page reproducton charge) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90–1149 Filed 1–17–90; 8:45 am)

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to The Clean Air Act; Wayne Insulation Co. Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 4, 1990 a proposed Consent Decree in *United States* v. *Wayne Insulation Company, Inc.* (E.D. Va.) Civil Action No. 89–1241–A was lodged with the United States District Court for the Eastern District of Virginia. The Consent Decree concerns violations of the Asbestos National Emission Standards for Hazardous Air Pollutants ("NESHAP"), 40 CFR part 61.140, *et seq.*, and the Clean Air Act, 42 U.S.C. 7401, *et seq.* ("the Act"). The proposed Consent Decree requires defendant Wayne Insulation Company, Inc. ("Wayne") (1) to pay a civil penalty of $25,000.00; (2) to comply with the asbestos NESHAP and the Act in the future; (3) to notify EPA of all renovation or demonlition work performed by Wayne in the future; and (4) to insure that its employees attend asbestos removal classes prior to performing any work on a demolition or renovation involving asbestos.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from February 20, 1990. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Wayne Insulation Company, Inc*, D.J. No. 90–5–2–1–1395.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Eastern District of Virginia, 1101 King Street, Suite 502, Alexandria, Virginia 22314 and the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90–1148 Filed 1–17–90; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION OF THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by February 20, 1990.

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of a previously approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Media Arts: Film/Radio/Television Applicaton Guidelines FY 1991.

Frequency of Collection: One time.

Respondents: Individuals or households; State or local governments; Non-profit institutions.

Use: Guidelines instructions and applications elicit relevant information from individual artists, nonprofit organizations, and state or local arts agencies that apply for funding under specific Media Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer reveiw process.

Estimated Number of Respondents: 1,000.

Average Burden Hours per Response: 38.

Total Estimated Burden: 38,000.

Anne C. Doyle,

Administrative Services Division, National Endowment for the Arts.

[FR Doc. 90-1144 Filed 1-17-90; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension; Extension.

2. The title of the information collection: Confidential Statement of Employment and Financial Interests.

3. The form number if applicable: NRC Form 443.

4. How often the collection is required: Prior to initial employment and then annually while employed by the NRC.

5. Who will be required or asked to report: NRC consultants, advisers, and experts (defined as "Special Government Employees").

6. An estimate of the number of responses: 180 per year.

7. An estimate of the total number of hours annually needed to complete the requirement or request: 360 (2 hours per response).

8. An indication of whether section 3504(h), Public Law No. 96-511 applies: Not applicable.

9. Abstract: The reporting of financial disclosure information is required to determine possible employment conflict of interest and to determine professional qualifications for NRC consultants, advisers, and experts.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Nicolas B. Garcia, Paperwork Reduction Project (3150-0025), Office of Management and Budget, Washington, DC 20503.

Comments can also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 27th day of December, 1989.

For the Nuclear Regulatory Commission.

Joyce A. Amenta,

Designated Senior Official for Information Resources Management.

[FR Doc. 90-1159 Filed 1-17-90; 8:45 am]

BILLING CODE 7590-01-M

Consumers Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR part 50, Appendix R, section III.G.1.a to the Consumers Power Company (the licensee) for the Big Rock Point Plant located in Charlevoix County, Michigan.

Environmental Assessment

Identification of the Proposed Action

The exemption would grant relief from the requirements of section III.G.1.a of Appendix R to 10 CFR part 50 which requires fire protection features capable of limiting fire damage so that one train of systems necessary to achieve and maintain hot shutdown conditions is free of fire damage. The exemption is technical since the licensee must demonstrate the ability to perform tasks required to provide water from the Demineralized Water System (DWS) to the instrument air compressors and to install the spare Service Water (SW) pump motor on the pump and the spare SW pump motor power cable from the emergency diesel generator connected to the spare motor. The water to the instrument air compressors are necessary to cool the air compressors so that air can be supplied to open two valves to supply DWS water to the emergency condenser (EC). The EC is needed to cool the Primary Coolant System (PCS) so that hot shutdown can be achieved and maintained. The spare SW pump motor is needed so that one SW pump could provide coolant to bring the plant to cold shutdown.

The Need for the Proposed Action

To safely shutdown the Big Rock Point Plant in the event of certain postulated fire scenarios in the screenhouse, the plant must be able to provide cooling water to the emergency condenser (EC) via the DWS to establish hot shutdown. Within seventy-two hours, the plant must be capable to maintain cold shutdown using the Service Water System.

The proposed exemption is needed because this method involves the temporary attachment of a hose to maintain hot shutdown. This action is considered a repair by Appendix R guidelines.

Environmental Impacts of the Proposed Action

The proposed exemption would provide cooling water to the instrument air compressors such that there is no increase in the risk of not achieving safe shutdown at the Big Rock Point Plant. Consequently, the probability of achieving safe shutdown has not been decreased and the post-accident radiological releases would not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

It has been concluded that there is no measurable impact associated with the proposed exemption and associated license amendment; any alternative to the exemption will have either no

environmental impact or greater environmental impact.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action involves no use of resources beyond the scope of resources used during normal plant operation.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the proposed action, see the licensee's letter dated October 14, 1986 supplemented by letters dated February 27, 1987 and February 22, 1988. These letters are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC, and at North Central Michigan College, 1515 Harvard Street, Petoskey, Michigan 49770.

Dated at Bethesda, Maryland, this 10th day of January 1990.

For the Nuclear Regulatory Commission.

John O. Thoma,

Acting Director, Project Directorate III—1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–1158 Filed 1–17–90; 8:45 am]

BILLING CODE 1590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–27601; File No. SR–NASD–89–12]

Self-Regulatory Organization; Proposed Rule Change by National Association of Securities Dealers Inc. Relating to the Display of Quote Size and Application for a Temporary Exemption From Commission Rule 11Ac1–1(c)(2)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 20, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, and subsequently filed amendments thereto on September 8, 1989 and December 20, 1989, as described in Items I, II, and III below, which Items have been prepared by the NASD. Notice is also hereby given that pursuant to Rule 11Ac1–1(d), 17 CFR 240.11Ac1–1(d), the NASD has applied herein for a temporary exemption from Rule 11Ac1–1(c)(2). The Commission is publishing this notice to solicit comments on the proposed rule change and the application for exemption from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend part VI, section 2 of Schedule D of the NASD By-Laws ("Schedule D") to require NASDAQ market makers to display quotation size and to honor such size to all parties except firms making a market in the subject security. The latter aspect of the proposed rule change would be effective for a 6-month pilot period. The following is the text of the proposed rule change. The proposed new language is italicized.

NASD By-Laws

Schedule D

Part VI

Sec. 2 Character of Quotations

(a) Two-Sided Quotations. For each security in which a member is registered as a market maker, the member shall be willing to buy and sell such security for its own account on a continuous basis and shall enter and maintain two-sided quotations in the NASDAQ System, subject to the procedures for excused withdrawal set forth in section 7 below. Each member registered as a NASDAQ market maker and as a market maker in the Small Order Execution System shall display the size for each quotation which size shall be no less than the maximum order size for such security eligible for execution through the Small Order Execution System, as shall be published from time to time by the Association pursuant to paragraph a) 7) of the Rules of Practice and Procedure for the Small Order Execution System.

(b) Firm Quotations. A market maker that receives an offer to buy or sell from another member of the Association shall execute a transaction for at least a normal unit of trading at its displayed quotations as disseminated through the NASDAQ System at the time of receipt of any such offer. If a market maker displays a quotation for a size greater than a normal unit of trading, it shall, upon receipt of an offer to buy or sell from another member of the Association, other than a member who is a market maker registered in the security, execute a transaction at least at the size displayed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In the SEC staff's report, The October 1987 Market Break, a recommendation was made that "the NASD and the Commission should reconsider, in light of the market break, the need to require market makers to include realistic sizes as part of their quotations." In response to this recommendation, and a similar recommendation by the NASD's Quality of Markets Committee, the NASD Board of Governors approved a proposal to amend Schedule D to require market makers in NASDAQ securities who are also market makers in the Small Order Execution System ("SOES") to display in NASDAQ at least equal to the maximum size of an order eligible for automatic execution in SOES, and to extend such size to all parties except firms which are also market makers in the subject security.

Under the current practice, few market makers display quotations in excess of the normal unit of trading, 100 shares. However, under the rules of Practice and Procedure for SOES (the "SOES Rules"), NASDAQ market makers that are also market makers in SOES are required to execute orders through SOES in size equal to or smaller than the "maximum order size" as shall be published from time to time by the Association. These order size limits are currently set at 1000 shares, 500 shares and 200 shares, depending upon the trading characteristics of the security. The NASD believes that display of the size of quotations would reflect this current trading environment. Mandatory size display would provide a realistic

picture of the actual size of execution available and the depth of the market in each security. Display of size would enhance investors knowledge and would also be benefitial to issuers by publicizing the liquidity and depth of the market for their securities.

The proposed rule would apply to all market makers that participate in SOES, and thus apply to National Market System ("NMS") securities as well as regular NASDAQ securities. Because of the current SOES requirement to execute orders in sizes equal to or smaller than the "maximum order size," the NASD does not believe that the proposed rule change will adversely affect NMS market makers, nor does it believe that the proposed rule change will discourage voluntary participation in SOES by non-NMS NASDAQ market makers.

The proposed rule change would also apply to transactions affected using the Order Confirmation Transaction service ("OCT") and the Computer Assisted Execution System ("CAES"). For the most part, the application of the rule to OCT and CAES, as well as to telephone orders should not result in multiple order exposure commitments. Under Rule 11Ac1-1(c)(3)(ii), a broker/dealer is relieved from the obligation of honoring its published quotation if, prior to the presentation of an order, broker/dealer has communicated to the NASD a revised quotation or if, at the time the order is presented, the broker/dealer is effecting a transaction in such security and immediately after the completion of such transaction, communicates a revised quotation to the NASD. In most cases, therefore, the maximum exposure for market makers should be the maximum tier size for SOES, provided the market maker complies with the requirements of Rule 11Ac1-(c)(3)(ii) in revising its quotation.

There may be cases, however, where a market maker will face multiple order exposure commitments due to the automated nature of SOES and the fact that the market maker is obliged to execute orders in SOES in amounts of up to five times the applicable maximum tier size. For example, if a phone order is followed by a SOES order that occurs during the course of the phone call, the market maker will be obligated to execute both orders. Likewise, a market maker could receive simultaneous orders through SOES and OCT and would be obligated to execute both up to the size displayed. Conversely, if a SOES order is received first and is followed by either a phone order or an OCT order, while the market maker is revising its quotation, the maximum exposure for the market maker would be the maximum tier size for SOES, due to the application of Rule 11Ac1-1(c)(3)(ii).

The NASD also notes that the exclusion of competing market makers is inconsistent with the requirements of Rule 11Ac1-1(c)(2) under the Act, the firm quote rule, which obligates a market maker to execute any order presented at its quoted price in any amount up to its published quote size. The NASD beleives, however, that extension of size to competing market makers would increase market making risk to the extent a competitor may fail to honor its side of a transaction. Higher net capital standards are currently under consideration by the SEC, and the NASD believes that those higher standards may significantly reduce the risk that would be assumed by market makers if required to honor size to competitors. Accordingly, the NASD proposes to excluse competing market makers, on a pilot basis only, for a six month period of time, whereupon, if higher net capital requirements have been adopted, this provision would be reexamined. The NASD herewith requests that an exemption from Rule 11Acl-1(c)(2) be afforded for the purposes of this rule for six months.

The NASD believes that the proposed rule change will enhance the quality liquidity and depth of NASDAQ and provide greater information to the investing public, and that therefore, the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act which provides, in pertinent part, that the rules of an association shall be designed to "remove impediments to and perfect the mechanism of a free and open market and a national market system."

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted in [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12)

Dated: January 9, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1093 Filed 1-17-90; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 33-6852; 34-27603; 35-25020; 39-2234; IC-17301; IA-1215; S7-2-90]

Privacy Act of 1974; Establishment of a System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of establishment of a system of records for the investigative files of the Office of Inspector General.

SUMMARY: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a ("Privacy Act"), the Securities and Exchange Commission ("Commission") is giving notice of the establishment of a new system of records, entitled Office of Inspector General Investigative Files.

The Commission's Office of Inspector General was created in March, 1989, and has statutory authority to conduct investigations relating to programs and operations of the Commission.

DATE: Comments on the establishment of the system must be submitted by February 20, 1990.

ADDRESS: Persons wishing to submit written comments should file 3 copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Reference should be made to File No. S7–2–90. Copies of the submission and all written comments will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Carol K. Scott ((202) 272–2474) or Kimberly Warren ((202) 272–3610), Office of the General Counsel, Securities and Exchange Commission.

SUPPLEMENTARY INFORMATION: In accordance with the Inspector General Act Amendments of 1988 (Public Law 95–452, as amended, 5 U.S.C. app. at 1184 (1988)), the Commission established an Office of Inspector General. The Office of Inspector General is an independent and objective unit established by the Commission to conduct investigations relating to the prevention and detection of fraud and abuse in the programs and operations of the Commission. In addition, the Office of Inspector General assists in the prosecution of participants in such fraud or abuse and reports to the Attorney General whenever the Inspector General has grounds to believe there has been a violation of federal criminal law. The Office also provides a means for keeping Congress and the Chairman of the Commission informed about problems and deficiencies in the Commission's programs and operations.

The Commission proposes to establish a new system of records, pursuant to the Privacy Act, entitled Office of Inspector General Investigative Files. This system of records will be maintained solely by the Office of Inspector General and will remain separate from Commission records. The system will consist of files and records compiled by the Commission's Office of Inspector General on Commission employees or other persons who have been part of an investigation for fraud and abuse with respect to the Commission's programs or operations. The proposed system of records will enable the Commission's Office of Inspector General to carry out its mandate under the Inspector General Act Amendments of 1988.

The Chairman, with the concurrence of the Commission, proposes to exempt certain files within this system of records from disclosure to individuals who are the subject of a record in the system. The exemptions would cover files compiled for the following purposes: (i) Identifying criminal offenders and alleged offenders and consisting of identifying data and notations of sentencing, confinement, release, and parole and probation status; (ii) a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; (iii) reports of enforcement of the criminal laws from arrest or indictment through release from supervision; and (iv) investigatory material compiled for law enforcement purposes. Those exemptions are the subject of a companion notice of proposed rulemaking that appears elsewhere in today's issue of the **Federal Register**. A report of the proposal to establish this system of records was filed pursuant to 5 U.S.C. 552a(*o*) with Congress and the Office of Management and Budget.

Accordingly, the Commission proposes to establish the following system of records for its Office of Inspector General:

SEC—103

SYSTEM NAME:

Office of Inspector General Investigative Files.

SYSTEM LOCATION:

Office of Inspector General, Securities and Exchange Commission, 450 5th Street, NW., Room 7010, Washington, D.C. 20549.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains records on individuals who are or have been subjects of the Office of Inspector General's investigations relating to programs and operations of the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

All correspondence relevant to the investigation; all internal staff memoranda, copies of all subpoenas issued during the investigation, affidavits, statements from witnesses, transcripts of testimony taken in the investigation and accompanying exhibits; documents and records or copies obtained during the investigation; working papers of the staff and other documents and records relating to the investigation; and opening reports, progress reports, and closing reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 95–452, as amended, 5 U.S.C. app. at 1184 (1988).

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

Information in the system may be disclosed:

(1) Where there is an indication of a violation or a potential violation of law, whether civil, criminal or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether federal, foreign, state, or local, or to a securities self-regulatory organization, charged with enforcing or implementing the statute, or rule, regulation or order.

(2) To Federal, foreign, state, or local authorities in order to obtain inforation or records relevant to an Office of Inspector General investigation.

(3) To Federal, foreign, state or local governmental authorities maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

(4) To Federal, foreign, state, or local governmental authorities in response to their request in connection with the hiring or retention of an employee, disciplinary or other administrative action concerning an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

(5) To non-governmental parties where those parties may have information the Office of Inspector General seeks to obtain in connection with an investigation.

(6) To independent auditors or other private firms with which the Office of Inspector General has contracted to

carry out an independent audit, or to collate, aggregate or otherwise refine data collected in the system of records. These contractors will be required to maintain Privacy Act safeguards with respect to such records.

(7) To respond to subpoenas in any litigtion or other proceeding.

(8) To the Department of Justice and/or the Office of the General Counsel of the Commission when the defendant in litigation is: (a) Any component of the Commission or any employee of the Commission in his or her official capacity; (b) the United States where the Commission determines that the claim, if successful, is likely to directly affect the operations of the Commission; or (c) any Commission employee in his or her individual capacity where the Department of Justice and/or the Office of the General Counsel of the Commission agree to represent such employee.

(9) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

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

STORAGE:

The Office of Inspector General Investigative Files consists of paper records maintained in binders and an automated data base maintained on computer diskettes. The binders and diskettes are stored in the Office of Inspector General's file cabinets.

RETRIEVABILITY:

The records are retrieved by the name of the subject of the investigation or by a unique control number assigned to each investigation.

SAFEGUARDS:

These records are available only to those persons whose official duties require such access. The records are kept in limited access areas during duty hours and in file cabinets in locked offices at all other times.

RETENTION AND DISPOSAL:

The Investigative Files are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of Inspector General, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

NOTIFICATION PROCEDURE:

Requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the Securities and Exchange Commission Public Reference Branch at 450 5th Street, NW., Washington, DC, or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

RECORD ACCESS PROCEDURES:

See Notification Procedures above.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Pursuant to 5 U.S.C. 522a(j)(2), this system of records, to the extent it pertains to the enforcement of criminal laws, is exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, except subsections (b),(c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

Pursuant to 5 U.S.C. 552a(k)(2), this system of records to the extent it consists of investigatory material compiled for law enforcement purposes, is exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3), (d) (e)(1), (e)(4)(G), (H), and (I), and (f) other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2).

These exemptions are contained in 17 CFR 200.313.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in this system of records should direct their requests to the Privacy Act Officer at the address above.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by: Individuals including, where practicable, those to whom the information relates; witnesses, corporations and other entities; records of individuals and of the Commission; records of other entities; Federal, foreign, state or local bodies and law enforcement agencies; documents, correspondence relating to litigation, and transcripts of testimony; and miscellaneous other sources.

Dated: January 10, 1990.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–1091 Filed 1–17–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27591; File No. SR–GSCC–89–14]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Filing of a Proposed Rule Change Establishing a Minimum Net Worth Requirement for Inter-Dealer Broker Netting Members

January 5, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act"),[1] notice is hereby given that on December 18, 1989, GSCC filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is attached hereto as Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) While GSCC has established minimum capital and net worth requirements for dealer netting members, currently, there is no minimum capital or net worth requirement for inter-dealer broker netting members. GSCC believes that it is desirable to establish a requirement of having and maintaining at least $4.2 million in net or liquid capital, as appropriate, for the admission of an inter-dealer broker as an inter-dealer broker netting member and for its continuance as a inter-dealer broker netting member.

[1] 15 U.S.C. 78s(b)(1).

This minimum capital standard for inter-dealer broker netting members is being set at $4.2 million in net or liquid capital for the following reasons. First, GSCC believes that each inter-dealer broker netting member should have capital in an amount at least equal to the $1.6 million in collateral that it is required to post with GSCC. Moreover, such member should have another $1.6 million in capital to cover the additional $1.6 million in collateral that it would be required to provide to GSCC for the following calendar year should the member be liable to pay to GSCC the full $1.6 million during a calendar year. Finally, each inter-dealer broker netting member should have an additional amount of capital so as to indicate that it is able to operate in a satisfactory manner. An objective measure of the minimum amount of capital needed to operate in a satisfactory manner is the $1 million net capital requirement for Government securities inter-dealer brokers that choose not to be subject to the normal liquid capital requirements for registered Government securities brokers and dealers established by the Treasury Department.

In its consideration of this issue, GSCC took into account the various financial, operational, and other applicalbe requirements for admission and continuance and a netting member, including the requirement of having an established, profitable business history of a minimum of six months or personnel with sufficient operational background and experience to ensure, in the judgment of the Board, the ability of the firm to conduct its business.

(b) The proposed rule change will help ensure the financial integrity of GSCC and, thus, promote the prompt and accurate clearance of securities transactions for which GSCC is responsible and is consistent with the requirements of the Securities Exchange Act of 1934, as amended and the rules and regulations thereunder applicable to a self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on competition

GSCC does not believe that the proposed rule will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received. Members will be notified of the rule filing, and comments will be solicited, by an important notice. GSCC will notify the Securities and Exchange Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to file number SR–GSCC–89–14 and should be submitted by February 8, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Exhibit A

Additional language is italicized. Deleted language is in [brackets].

Rule 15—Financial Responsibility and Operational Capability Standards

Section 2—Admission Criteria for Netting Members

Subject to the limitations set forth in Section 8 of Rule 2, the Board shall approve an application to become a Netting Member by a Person that is eligible to apply to become a Netting Member pursuant to Rule 2 upon a determination that such applicant meets the following requirements:

(a) Comparison System Admission Standards—The applicant continues to meet the requirements for becoming a Comparison-Only Member set forth in Section 1 of this Rule.

(b) Financial Responsibility—The applicant shall:

(i) Have sufficient financial ability to make anticipated required deposits to the Clearing Fund as provided for in Rule 4, and to meet all of its other obligations to the Corporation in a timely manner; and

(ii) Satisfy the following minimum capital requirements:

(A) An applicant that is registered with the SEC as a broker or a dealer pursuant to Section 15 of the Exchange Act must have, as of the end of the calendar month prior to the effective date of its membership, (1) Net Worth of at least $50 million and (2) Excess Net Capital of at least $10 million;

(B) An applicant that is registered with the SEC pursuant to Section 15C of the Exchange Act as a Government Securities Broker or Government Securities Dealer must have, as of the end of the calendar month prior to the effective date of its membership, (1) Net Worth of at least $50 million and (2) Excess Liquid Capital of at least $10 million;

(C) Notwithstanding the above, an applicant that [demonstrates to the satisfaction of the Board that it limits its business to acting exclusively as a broker on behalf of Persons that have the ability to meet the qualifications and standards set forth in Rule 2 and Rule 15 for becoming a Netting Member] *is an Inter-Dealer Broker* is not subject to the requirements of [this] subparagraph (ii) *(B), but, rather, is subject to the requirement that it must have, as of the end of the calendar month prior to the effective date of its membership, liquid capital or net capital, as appropriate, of at least $4.2 million;*

(D) An applicant that is a bank chartered under Federal or State law must have a level of equity capital as of the end of the month prior to the effective date of its membership, determined in accordance with generally accepted accounting principles, of at least $250 million; and

(E) Any other type of entity must meet minimum capital requirements as determined by the Corporation on an individual basis.

(c) Business History—The applicant must have an established, profitable business history of a minimum of six

months or personnel with sufficient operational background and experience to ensure, in the judgment of the Board, the ability of the firm to conduct its business.

The foregoing financial responsibility standards are only minimum requirements, and the Board, based upon the level of the anticipated positions and obligations of the applicant, the anticipated risk associated with the volume and types of transactions the applicant proposes to process through the Corporation, and the overall financial condition of the applicant, may impose greater standards. If an applicant does not itself satisfy the above minimum capital requirements, the Board may include for such purposes the capital of an Affiliate of the applicant, if the Affiliate has delivered to the Corporation a guaranty, satisfactory in form and substance to the Board, of the obligations of the applicant to the Corporation.

[FR Doc. 90-1100 Filed 1-17-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-27598; File No. SR-NYSE-89-43]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc. Relating to the Resolution of Uncompared Transactions for "Next-Day" and "Seller's Option" Settlement Through the Exchange's "Correction System"

January 9, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-NYSE-89-43) as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will enable clearing firms to resolve uncompared transactions executed on the Exchange for "next-day" and "seller's option" settlement through the "T+," Overnight Comparison System ("OCS") when they have elected to compare but not settle such transactions through the comparison facilities of the National Securities Clearing Corporation ("NSCC").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in section (A), (B), and (C) below.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Since September, 1988, the Exchange has begun implementing its OCS. Since this is the first major overhaul of its comparison system since the 1970's, it is being implemented in a series of stages, so that the effect on the Exchange's clearing community in terms of operational problems will be minimal.

The steps that have been implemented thus far are as follows:

- On September 1, 1988, the Exchange adopted Rule 130 as an "enabling" Rule establishing the principle that "regular way" transactions in listed stocks, rights and warrants must be compared (but not settled) or closed out within one business day from the trade date. This Rule will become fully effective no later than September, 1990.[2]
- On April 27, 1989, the Exchange began to implement its "Correction System," a major component of its OCS, whereby uncompared trades ("Questioned Trades" or "QTs") are resolved through the use of electronic terminals rather than by a manual process involving paper forms.[3] The Correction System was fully implemented on July 18, 1989, when stocks whose ticker symbols beginning with the letters "N" through "Z" were added.
- On August 17, 1989, concomitant with an industry-wide Comparison Redesign by the NSCC, the Exchange shortened the time-frame for resolving "Questioned Trades" by 24 hours, from "T+3" to "T+2."[4]

Initially, the Exchange limited the use of its Correction System tto resolving uncompared transactions for "regular way" settlement in listed stock because no qualified clearing agency accepted transactions for other types of settlement terms for comparison or settlement.

- However, the NSCC has amended its rules to accept both "next-day" and "seller's" option" transactions for comparison but not settlement. Settlement will continue to be made between the parties by physical delivery of securities. Since some of these transactions will not be compared for one reason or another, they can be displayed on the Exchange's Correction System terminals and resolved in a more efficient and cost-effective manner than by using the manual process involving paper forms. The paper form process involves hand-delivering a form to the office of the contra-party to the trade and having the trade details verified and the form stamped attesting to its accuracy before delivery can be effected. Under the manual method, any differences resulting in an uncompared trade must be resolved on the Floor between the members involved in the trade pursuant to Exchange Rule 135.

Therefore, the Exchange proposes to issue an Information Memo enabling clearing firms to resolve uncompared transactions executed on the Exchange for "next-day" and "seller's option" settlement through its Correction System when they have elected to compare but not settle such transactions through the comparison facilities of NSCC.

(2) Statutory Basis for the Proposed Rule Change

The Exchange believes that its reasons for resolving uncompared "next-day" and "seller's option" transactions through its Correction System is philosophically consistent with its reasons for developing and implementing the System for resolving uncompared "regular way" transactions. Extending the use of an established, centralized electronic system for resolving uncompared transactions with different settlement terms is more efficient and cost-effective than processing them manually. For this reason, processing uncompared "next-day" and "seller's option" transactions

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[1] The term "next-day" settlement means settlement on the next business day after the trade date, *i.e.*, T+1. The term "seller's option" settlement means settlement on the date agreed upon by the parties to the contract but not sooner than T+5. *See* NYSE Rules 64, 179.

[2] *See* Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 [File No. SR-NYSE-88-36].

[3] *See* Securities Exchange Act Release No. 26773 (May 1, 9198), 54 FR 20227 [File No. SR-NYSE-89-03].

[4] *See* Securities Exchange Act Release No. 27098 (August 3, 1989), 54 FR 33299 [File No. SR-NYSE-89-20].

through the Correction System will help protect investors and the public interest as called for in section 6(b)(5) of the Act. The rule change meets another requirement of section 6(b)(5) in that it will promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities. It also meets the requirements of section 17A(a)(1) of the Act in that it will enhance the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited comments on the proposed rule change and no unsolicited comments have been received.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

In view of the fact that the electronic Correction System is currently being used to process "Questioned Trades" in "regular-way" transactions [5] in listed stocks effected on the Exchange, which has already been approved for use by the Commission, the Exchange views the instant filing merely as an extension of the System to two types of contracts with different settlement terms. As such, this rule change is being filed with the Commission pursuant to section 19(b)(1), and the Exchange requests that the Commission accelerate the effectiveness of the proposed rule change filed herein.

The Commission finds good cause under section 19(b)(2) of the Act for approving this rule proposal in less than the thirty day statutory period after notice of the proposal has appeared in the **Federal Register**. First, The Commission believes that the rule proposal, which applies OCS to equity trades for "next-day" and "seller's option" settlement is materially similar to existing NYSE rules applying OCS TO NYSE trades for regular-way settlement, which the Commission already has approved.[6] Second, the Commission views this action by NYSE as a necessary step in an important schedule of events leading to the full implementation of the NYSE's T+1 compare or close-out rules in the second half of 1990.

IV. Solicitation of Comments

Interested persons are invited to submit data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File Number SR–NYSE–89–43 and should be submitted by February 8, 1990.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act, particularly sections 6(b)(5) and 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change [File No. SR–NYSE–89–43] be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority (17 CFR 200.3(a)(12)).

Jonathan G. Katz,

Secretary.

[FR Doc. 90–1101 Filed 1–17–90; 8:45 am]

BILLING CODE 8010–01–M

[5] The term 'regular-way" transaction means settlement on the fifth business day after the trade date, *i.e.*, T+5. *See* NYSE Rule 64(c).

[6] *See, supra*, note 3.

[Release No. 34–27600; File No. SR–NYSE–89–35]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Modifications to the Exchange's Individual Investor Express Delivery Service

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 6, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing to modify its Individual Investor Express Delivery Service ("IIEDS") to provide that simple market orders of individual investors up to 2,099 shares will, at all times, have priority delivery in the Exchange's SuperDot system ahead of all other orders.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

IIEDS provides priority delivery, ahead of other orders, via the SuperDot system for simple market orders of 2,099 shares or less for the account of an individual investor so identified by member firms pursuant to order instructions received directly from the

[1] SuperDot is an electronic system that routes orders in NYSE stocks from member firms to the relevant specialist posts on the NYSE floor.

individual investor. Currently, IIEDS is activated on any day when the Dow Jones Industrial Average ("DJIA") moves 25 points up or down from the previous trading day's close and remains in effect for the balance of any trading day that it is activated.[2] The proposed rule change would make IIEDS available at all times.

Simple buy or sell round lot market and market GTC ("good 'til cancelled") orders will be eligible for IIEDS. Market orders to buy minus, sell plus, sell short, to buy or sell stop, all or none orders, as well as all limit orders will not be eligible for IIEDS. In addition, a limit order which is cancelled and replaced with a market order when entered as a single cancel/replacement order will not be eligible for IIEDS.

IIEDS simply provides for priority delivery via SuperDot to the specialist's post for those round-lot market orders which are eligible for this service. Once the order reaches the post, however, the specialist must follow normal auction market procedures in actually executing the order. Odd-lot market orders will receive priority delivery to the NYSE's Limit System for execution.[3]

The term "account of an individual investor" means an account covered by section 11(a)(1)(E) of the Act, as interpreted by the Commission. IIEDS would not be available, however, for orders entered by and pursuant to the instructions of professional managers, including investment advisors and account executives having discretion over an individual's account.

The Exchange believes that IIEDS is a reasonable means of enhancing the confidence of individual investors that their orders will be efficiently and effectively processed in the NYSE marketplace. The Exchange notes that there have been no operational problems to date with IIEDS and capacity tests demonstrate that the system can accomodate all reasonably anticipated volume and surges in volume that could result from its expanded IIEDS proposal.[4]

[2] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (approving File No. SR–NYSE–88–24).

[3] The NYSE's Limit System electronically routes and executes odd-lot market orders based on the prevailing NYSE quote. *See* Securities Exchange Act Release No. 25177 (December 7, 1987), 52 FR 47472 (approving File No. SR–NYSE–87–20).

[4] *See* letter from Catherine R. Kinney, Senior Vice President, Equities, NYSE, to Mary Revell, Branch Chief, Division of Market Regulation, dated December 7, 1989. The Exchange also noted that making IIEDS available at all times for orders of individual investors is not expected to have any negative impact on any other Exchange system; and IIEDS is part of a secure system which is protected against interference from external sources.

2. Statutory Basis

The NYSE believes that the statutory basis for this proposed rule change is the requirement under section 6(b)(5) of the Act that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act. In particular, since the Exchange believes the proposed rule change will promote individual investor confidence in the fairness and orderliness of the Exchange market, the Exchange requests that the Commission accelerate the effectiveness of the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[5]

In particular, the Commission finds that the NYSE's proposal to activate IIEDS at all times, rather than on days in which the DJIA experiences a 25-point move, is consistent with section 6(b)(5) of the Act because it will help restore the confidence of individual investors that either orders will be efficiently and effectively executed on the NYSE, thereby protecting investors and the public interest. The Commission believes that the activation during all trading days of IIEDS will avoid delays in the execution of small customer orders which otherwise might have occurred because of the presence of a large number of institutional investor orders, especially during extreme market conditions. In addition, the Commission does not believe that the Exchange's proposal affords too large an executional advantage to small investors since, once IIEDS-directed orders reach the applicable specialists post, they are executed according to normal auction market procedures.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** because the proposal extends the scope of a current program designed to assist individual investor orders. In light of the absence of any adverse comments on the current IIEDS system and the Commission's view of the critical importance of implementing proposals to increase investor confidence in the markets, the Commission believes a good cause exists to approve the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be availabe for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 8, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–NYSE–89–35) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

[5] 15 U.S.C. 78f(b)(5) (1982).

[6] 15 U.S.C. 78s(b) (1982).

[7] 17 CFR 200.30(a)(12) (1989).

Dated: January 9, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1098 Filed 1-17-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27602; File No. SR-PSE-89-32]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc.; Relating to Transaction and Book Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 18, 1989, the ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Exchange proposes to revise its current pricing structure for transaction rates and book rates in options trading, and to establish a pricing structure for its Pacific Options Exchange Trading System ("POETS"). The revised pricing structure is set forth in Exhibit A.

The Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for an equitable allocation of reasonable dues, fees, and other charges among PSE members using the facilities of the Exchange. In addition, the Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

As foregoing rule change is concerned solely with the imposition by the PSE of reasonable dues, fees and other charges among its members, it has become effective immediately pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, and Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission. and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 8, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: January 9, 1990.

Jonathan G. Katz,

Secretary.

Exhibit A—Proposed Options Rate Changes

(Italics indicate additions. Brackets indicate deletions.)

Transaction Charges

Market Maker Rates

No change.

Firm Rates	Per side
Contract premium less than $1.00	[$0.15] *$0.075*
Contract premium $1.00 and above	[$0.35] *$0.10*

Customer Rates

No change

Book Rates

• Per Contract, based upon number of contracts for each trade.

Premium Price	1st-10th Contracts	11th and above
[under $0.50	$0.50	$0.40
$0.50 to $0.99	1.00	.80
$1.00 to $1.99	1.10	.90
$2.00 to $3.99	1.20	1.10
$4.00 to $7.99	2.00	1.80
$8.00 to $13.99	2.50	2.00
$14.00 to $19.99	2.90	2.40
$20.00 and over	3.50	3.00]

[1] 17 CFR 200.30-3(a)(12) (1989).

Premium Price	1st-10th Contracts	11th and above
under $0.25	*$0.35*	*$0.30*
$0.25 to $0.99	*.50*	*.45*
$1.00 to $2.49	*.70*	*.60*
$2.50 to $3.99	*.80*	*.70*
$4.00 to $6.99	*1.10*	*.975*
$7.00 and over	*1.40*	*1.15*

Post Trade Processing

No change.

Poets

Booked Orders

Via POETS: No additional charge to book rates

Via manual entry: Book Rates plus handling charge for manually inputting order—$0.50 per entry (paid upon partial or full execution)

Market Orders and Marketable Limit Orders

Customer charge (for POETS order entry): $0.30 per contract side minimum charge of $0.35

Market maker transaction fees:

Auto execution: $0.05 per contract side

Semi-auto execution: $0.10 per contract side

Manual execution: $0.075 per contract side

Firm charge for floor participation on semi-auto execution: $0.10 per contract side

Post Trade Processing

On-line comparison: $0.30 per trade plus $0.005 per contract side

Data entry: No data entry charge on trades entered via POETS and executed through auto ex. Data entry charge is applied to floor side of semi-auto ex transactions

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[FR Doc. 90-1094 Filed 1-17-90; 8:45 am]

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[Release No. 34-27599; File No. SR-Phlx-89-03]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Enhancement of the Phlx AUTOM System

I. Introduction

On June 26, 1989, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act

of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to enhance the Exchange's Automated Options Market ("AUTOM") system by installing an automatic execution feature for 12 Phlx equity options on a pilot basis until June 30, 1990.[3] The Exchange also proposes to make day limit orders eligible for delivery through AUTOM.

The proposed rule change was noticed in Securities Exchange Act Release No. 27033 (July 13, 1989), 54 FR 30622 (July 21, 1989). No comments were received on the proposed rule change.

II. Background and Description

In March 1988, the Commission approved a Phlx rule change implementing a pilot program to establish the AUTOM system for market orders [4] of up to five contracts in all exercise prices in the near month for 12 Phlx equity options.[5] AUTOM is an automated system that allows electronic delivery of options orders from member firms directly to the appropriate specialist post on the Phlx options trading floor, with electronic confirmation of order executions.[6] Currently, all eligible orders electronically delivered to the options floor of the Exchange through AUTOM are executed manually.

The proposed rule change provides for automatic execution of eligible market and marketable limit orders,[7] and makes day limit orders [8] eligible for delivery through the system. Automatic execution through AUTOM will be available only to single customer market and marketable limit orders [9] of up to 10 contracts in at-the-money options, and options at one price interval above or below the at-the-money option (*i.e.*, three strike prices and all expirations). Thus, orders identified as "firm" or "market maker" orders and those identified as required to yield priority, parity and precedence pursuant to SEC rules, are not eligible for automatic execution through the system. All other eligible market, marketable limit, and day limit orders delivered to the Exchange through the AUTOM system will be executed manually.[10]

Upon completion of the Phlx opening rotation, bids and offers will be reviewed by the specialist and updated as necessary. After bids and offers are updated, the proposed automatic execution feature of the AUTOM system will be engaged.[11] Once the automatic execution feature is engaged, an incoming eligible market or marketable limit order will be: (1) Printed in hard copy form at the floor representative booth of the delivering member organization; (2) displayed on the trading crowd screen with buy/sell information omitted; and (3) printed in hard copy form at the specialist post. The order will be priced and executed automatically at the displayed bid or offer, and the execution will be reported automatically at the displayed bid or offer, and the execution will be reported automatically to the Options Price Reporting Authority ("OPRA"). The specialist will be the contra-side of all trades, however, he must ensure participation of bids and offers on the limit order book and in the trading crowd which are entitled to execution pursuant to the Exchange's rules of priority, parity, and precedence. To effectuate this, if an AUTOM order is executed automatically at a price at which the specialist is bidding or offering on behalf of an order in the limit order book, the number of contracts executed automatically must be allocated to the order on the book. For example, if the specialist is bidding 4 on behalf of a booked order for 10 June 30 calls at a time when an automatic execution occurs for 10 June 30 calls at 4, the specialist must, through an adjustment process, remove himself from the trade (since he is the recorded contra-side to the automatic execution) and insert the booked order as the contra-side for the 10 June 30 calls at 4. The specialist will make the same adjustment when the bid or offer is on behalf of a floor broker or market maker in the crowd.

Upon automatic execution of an AUTOM order, the contra-side to the trade, the specialist in most cases, will prepare a buy/sell ticket(s) evidencing participation in the transaction. The hard copy of the AUTOM order which is printed at the specialist post then will be matched with the contra-side buy/sell ticket(s), and essential trade information (*i.e.*, number of contracts, symbol, and price) will be entered into the Exchange's CENTRAMART system [12] for comparison and settlement purposes. After entry into the CENTRAMART system, a hard copy confirmation of execution will be printed out at both the delivering member's floor representative's booth and the floor representative's booth for the contra-side of the trade. In addition, a report of the execution is electronically returned to the delivering member organization, and a hard copy of the report is printed at the AUTOM floor representative's booth at the delivering member organization.[13]

The Exchange notes that the automatic execution feature of the AUTOM system will remain in

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] In November 1989, the Exchange amended its filing to make the automatic execution feature of AUTOM available for any option which becomes multiply traded in addition to the 12 options originally proposed to be included in the pilot program. *See* Letter from Michael A. Finnegan, Senior Vice President, Phlx, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated November 8, 1989.

[4] A market order is an order to buy or sell a stated amount of a security at the most advantageous price obtainable after the order is represented in the trading crowd.

[5] *See* Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390. Subsequently, the Commission approved Phlx proposed rule changes which: (1) Expanded AUTOM to 37 Phlx equity options and extended the pilot through December 31, 1988, *see* Securities Exchange Act Release No. 25868 (June 30, 1988), 53 FR 25563; (2) made orders in all exercise prices for all expiration months for the 37 options approved for the pilot eligible to be handled by AUTOM, increased the eligible order size for AUTOM to 10 contracts, and extended the pilot through June 30, 1989, *see* Securities Exchange Act Release No. 26354 (December 13, 1988), 53 FR 51185; and (3) expanded the pilot to include an additional 25 equity options and extended the pilot through December 31, 1989, *see* Securities Exchange Act Release No. 26522 (February 3, 1989), 54 FR 6465.

[6] For a detailed description of AUTOM *see* Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390.

[7] A marketable limit order is an order to buy or sell a stated amount of a security at a specified price, and is entered at a time when the market is trading at or better than the specified price.

[8] A day limit order is an order to buy or sell a stated amount of a security at a specified price which expires at the end of the day on which it is entered if it is not executed.

[9] For example, a retail user of the AUTOM system may not separate a 20 contract order into two ten contract orders for the purpose of attempting to make such an order eligible for automatic execution through the system.

[10] Market and limit orders received by the specialist through the AUTOM system before 9:25 a.m. shall participate in the opening and shall be manually executed at the opening sale price. Limit orders, however, will be executed at the opening sale price only if they are so entitled based upon the price and size of the bid which is accepted or the size of the offer which is taken establishing the opening price. Market and limit orders received by the specialist after 9:25 a.m. but prior to the opening sale shall participate in the opening to the same extent as market and limit orders received before 9:25 a.m., provided such opening sale shall occur at a time which reasonably would include such orders. Otherwise, such orders shall be executed upon completion of the opening rotation.

[11] Thereafter, market and marketable limit orders which were delivered through the AUTOM system during the opening rotation, but were not entitled to be executed at the opening, will be executed automatically, if entitled, based upon the displayed bid and offer.

[12] CENTRAMART is the Phlx system used for quote dissemination, trade reporting, and the generation of clearing information.

[13] The trade matching and confirmation procedures applicable from the time an order is executed until trade information is transmitted to the Options Clearing Corporation are identical for orders executed manually and automatically through AUTOM.

continuous operation during the trading day absent operational failure, trading halts, or trading suspensions in underlying securities. The Exchange, however, proposes to retain the right to disengage the system in order to maintain a fair and orderly market and investor protection. Disengagement or non-activation of the automatic execution feature in a specific options class will require two floor officials to concur that such action is appropriate to ensure fair and orderly markets and ensure investor protection. In addition, disengagement or non-activation of the automatic execution feature on a floorwide basis during a trading day will require the Exchange's Emergency Committee [14] to determine that such action is necessary to maintain fair and orderly markets and ensure investor protection.

The Phlx states that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and foster competition among exchange markets by improving the efficiency of execution of transactions in Phlx equity options through the use of new data processing and communications techniques. In addition, as explained more fully below, the Exchange does not foresee any signficant taxing of the Exchange's computer systems if the Commission approves, on a pilot basis, the expansion of AUTOM to include an automatic execution feature.[15]

III. Discussion

The Commission finds that the proposed rule change permitting the use of the AUTOM electronic order delivery system for eligible day limit orders, and expanding AUTOM, on a pilot basis, to include an automatic execution feature for 12 Phlx equity options and any multiply-traded options, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Sections 6 [16] and 11A [17] and the rules and regulations thereunder.

The Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act because it will offer public customers a more efficient method of executing small market and marketable limit orders in Phlx equity options. With AUTOM, public customers and retail firms will have the benefit of receiving immediate executions and nearly instantaneous confirmations. In addition, public customers are likely to benefit because the AUTOM automatic execution feature provides that the price of an AUTOM order will be guaranteed by the specialist at the displayed market quote. Moreover, by ensuring the protection of public customer limit orders on the specialist's book, the proposed rule change is consistent with the Act's mandate to protect investors and the public interest. The automatic execution feature of AUTOM also should increase the depth and liquidity in Phlx options markets. AUTOM will reduce the number of transactions that require manual execution on the Exchange floor, thereby providing the opportunity for increased efficiency in the handling of non-AUTOM orders, especially large orders where floor broker intervention is more likely to be necessary. In addition, AUTOM also could increase specialist efficiency, especially on peak volume days, because specialists will no longer be required to enter manually trade confirmation data into the system, except in those instances where the limit order book or the trading crowd represents the best bid or offer.

The Commission previously has recommended that options exchanges ensure that their automatic execution systems are operational during periods of market volatility as well as during normal periods. The Phlx has designed the AUTOM automatic execution system so that it will be operational at all times after opening rotation, except for rare exceptional circumstances. First, the system has built-in market maker participation, in that the specialist is automatically the system's contra-broker, unless the limit order book or crowd quote represents the displayed quote. Second, the Phlx has proposed standards for the disengagement or non-activation of the AUTOM automatic execution feature, either in a particular option or floorwide (*i.e.*, the maintenance of fair and orderly markets or the protection of investors), coupled with its proposed procedural safeguards (*i.e.*, the concurrence of either two floor officials or the Exchange's Emergency Committee), that should ensure that the automatic execution feature of AUTOM will be available in all but the most exceptional circumstances.

Third, the Commission believes, based on Phlx representations and data, that an expansion of the AUTOM system to include an automatic execution feature will not increase the number of messages being processed through the system to such an extent that the system will become unable to handle additional order flow related messages. The Phlx has represented that if the proposed rule change is approved, AUTOM will have the capacity to process reasonably expected message traffic as well as occasional surges in message traffic, and that AUTOM should not impact Phlx's other automated systems.[18] In this regard, the Phlx represents that the AUTOM system has the capacity to process 48,000 orders per trading day (*i.e.*, two orders per second). Thus far, order flow through AUTOM system has been insignificant, and the Phlx estimates that order flow during the course of the pilot will not exceed 2,000 orders per day.[19]

IV. Conclusion

Based upon the aforementioned factors, the Commission finds that the proposed rule change to make day limit orders eligible for delivery through the AUTOM system, and to expand the system to include an automatic execution feature in 12 Phlx equity options on a pilot basis, and any other option that becomes multiply traded after the commencement of the pilot, is consistent with the requirements of Section 6 and 11A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Phlx–89–03) be, and hereby is, approved on a pilot basis until June 30, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Dated: January 9, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–1095 Filed 1–17–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–17298; File No. 812–7393]

American United Life Insurance Co., et al.

January 9, 1990.

AGENCY: Securities and Exchange Commission ("Commission").

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[14] The Emergency Committee consists of the Exchange's Chairman, President, and Chairmen of the Floor Procedure, Options, and Foreign Currency Options Committees.

[15] *See* Letter from Michael A. Finnegan, Senior Vice President, Phlx, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated November 8, 1989.

[16] 15 U.S.C. 78f (1982).

[17] 15 U.S.C. 78k–1 (1982).

[18] *Supra* note 15.

[19] *Id.*

[20] 15 U.S.C. 78s(b)(2) (1982).

[21] 17 CFR 200.30–3(a)(12) (1989).

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: American United Life Insurance Company ("AUL") and AUL American Unit Trust (the "Variable Account") (collectively referred to herein as "Applicants").

Relevant 1940 Act Section: Exemption requested under section 6(c) of the 1940 Act from sections 26(a)(2)(C) and 27(c)(2) thereof.

Summary of Application: Applicants seek an Order to the extent necessary to permit the deduction of a mortality and expense risk charge with respect to certain group variable annuity contracts (the "Contracts").

Filing Date: The application was filed on September 20, 1989 and amended on December 22, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission by 5:30 p.m., on February 5, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the Commission, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washinton, DC 20549. Applicants, c/o Richard A. Wacker, Esq., American United Life Insurance Company, One American Square, Indianapolis, IN 46204. Copies to Jeffrey S. Puretz, Esquire, Dechert Price & Rhoads, 1500 K Street NW., Suite 500, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Cindy J. Rose, Financial Analyst, at (202) 272–3027 or Clifford E. Kirsch, Assistant Director, at (202) 272–2060.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the Commission's public Reference Branch in person or the Commission's commercial copier which may be contacted at (800) 231–3282 (in Maryland (301) 738–4300).

Applicant's Representations

1. AUL is a legal reserve mutual life insurance company existing under the laws of the State of Indiana. As a mutual company, it is owned by and operated exclusively for the benefit of its contract owners. AUL conducts a conventional life insurance, health insurance, reinsurance and annutiy business.

2. A registration statement and a Form N–8A have been filed with the Commission registering the Variable Account as a unit investment trust under the 1940 Act and registering interests in the Contracts as securities under the Securities Act of 1933 (the "1933 Act"). The Variable Account is currently divided into four sub-accounts (the "Investment Accounts"). The Investment Accounts of the Variable Account will invest in shares of corresponding portfolios of AUL American Series Fund, Inc. (the "Fund"), a mutual fund with multiple portfolios (each a "Portfolio"). The Fund is managed by AUL, a registered investment adviser under the Investment Advisers Act of 1940.

3. AUL will be the principal underwriter and distributor of the Contracts. AUL will distribute the Contracts through representatives who are licensed to sell securities, insurance products and variable annuities. AUL is a broker-dealer registered under the Securities Exchange Act of 1934. AUL will also enter into sales agreements with various broker-dealers under which the Contracts will be sold by registered representatives of the broker-dealers.

4.The Contractors are designed for use in connection with employer, association and other group retirement plans (each a "Plan") which qualify for favorable tax-deferred treatment as retirement programs under sections 401, 403(b), 408 or 457 of the Internal Revenue Code of 1986, as amended (the "Code"). The Contracts may be entered into by any employer, association or other group. Generally, contributions may be made by an employer on behalf of an employee or by the employee himself.

5. The Contracts provide for the accumulation of values on either a fixed basis, a variable basis, or both. The Contracts also provide for several fixed annuity options, any one of which may be elected if permitted by the applicable Plan and applicable law. Payments under the annuity options will be fixed and guaranteed by AUL. Contributions that are intended to accumulate on a fixed basis may be allocated to the Fixed Account, which is the general account of AUL. Contributions that are intended to accumulate on a variable basis may be allocated to one or more of the Investment Accounts.

6. If a Participant dies during the period before annuity payments begin (the "Accumulation Period"), AUL will pay a death benefit to the Beneficiary. The amount of the death benefit equals the vested portion of the Participant's Account Value, minus any outstanding loan balances and any due and unpaid charges on those loans.

7. AUL deducts an administrative charge from each Participant's Account equal to $7.50 a quarter. The charge is assessed every quarter on a Participant Account if it is in effect on the quarterly Contract Anniversary, said is assessed only during the Accumulation Period. When a Participant annuitizes or surrenders on any day other than a quarterly Contract Anniversary, a pro rata portion of the charge for that portion of the quarter will not be assessed. The purpose of this charge is to reimburse AUL for the expenses associated with administration of the Contracts and operation of the Variable Account. AUL does not expect to profit from this charge.

8. No deduction for sales charges is made from contributions for a Contract. However, if a cash withdrawal is made or a Participant's Account is surrendered, a withdrawal charge (which may also be referred to as a contingent deferred sales charge), may be assessed by AUL if the Participant's Account has not been in existence for a certain period of time. During the first Account Year of a Participant's Account, the withdrawal charge applies against the total amount withdrawn. Each year thereafter, a withdrawal charge will not be assessed upon a withdrawal of up to 10% of the Participant's Account Value as of the last Contract Anniversary preceding the request for the withdrawal. If a surrender or a withdrawal in excess of this 10% allowable amount is made, a withdrawal charge will be assessed equal to a percentage of the amount withdrawn in excess of the 10% allowable amount. The amount of the charge will depend upon the number of Account Years the Account has been in existence, as follows:

Account year	Charge on withdrawal exceeding 10% allowable amount (percent)
1–5	8%
6–10	4%
11 or more	0

In no event will the amount of any withdrawal charge, when added to any

withdrawal charges previously assessed against any amount withdrawn from a Participant's Account, exceed 9% of the contributions made by or on behalf of a Participant under a Contract. In addition, no withdrawal charge will be imposed on or after the Annuity Commencement Date or upon payment of a death benefit under the Contract. The withdrawal charge will be used to recover certain expenses relating to sales of the Contracts, including commissions paid to sales personnel and other promotional costs.

9. AUL Guarantees that the mortality and expense risk charge shall not increase. AUL also guarantees that through the year 2000, the administrative charge may not increase to more than $15.00 per quarter. After the year 2000, AUL may increase the fee but only to the extent necessary to recover the expenses associated with administration of the Contracts and operation of the Variable Account.

10. AUL deducts a daily charge from the assets of each Investment Account for mortality and expense risks assumed by AUL. The charge is equal to an annual rate of 1.25% of the average daily net assets of each Investment Account. This amount is intended to compensate AUL for certain mortality and expense risks AUL assumes in offering and administering the Contracts and in operating the Variable Account. The 1.25% charge consists of .40% for expense risk and .85% for mortality risk. The relative proportion of these charges may change, but the aggregate charge is guaranteed by AUL not to increase.

11. The expense risk is the risk that AUL's actual expenses in issuing and administering the Contracts and operating the Variable Account will be more than the charges assessed for such expenses. The mortality risk borne by AUL is the risk that Annuitants, as a group, will live longer than the Company's actuarial tables predict. AUL may ultimately realize a profit from this charge to the extent it is not needed to address mortality and administrative expenses, but AUL may realize a loss to the extent the charge is not sufficient. AUL may use any profit derived from this charge for any lawful purpose, including any distribution expenses not covered by the withdrawal charge.

12. AUL submits that it is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the level of the mortality and expense risk charge imposed in within the range of industry practice for comparable products. Applicants state that this representation is based upon their analysis of publicly available information regarding comparable contracts of other companies, taking into consideration the particular annuity features of the comparable contracts, including such factors as: annuity purchase rate guarantees, death benefit guarantees, other contract charges, the frequencies of charges, the administration services performed by the companies, with respect to the contracts, the distribution methods, the market for the contracts and the tax status of the Contracts. Applicants represent that they will maintain at their Home Office, and make available to the Commission, a memorandum setting forth in detail the comparable variable annuity products analyzed and the methodology, and results of, Applicants' comparative review.

13. Applicants acknowledge that if the revenues generated by the withdrawal charge are insufficient to cover AUL's actual costs related to the distribution of the Contracts, such costs will be paid from AUL's General Account assets, which may include any ultimate profit derived from the mortality and expense risk charge. In such circumstances, a portion of the mortality and expense risk charge may be viewed as providing for a portion of the costs relating to distribution of the Contracts.

14. Notwithstanding the foregoing, AUL has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Variable Account, the Contractowners and the Participants. The basis for AUL's conclusion is set forth in a memorandum which will be maintained by AUL at its Home Office and will be available to the Commission.

15. Moreover, AUL represents that the Variable Account will invest only in open-end management companies that undertake to have any plan adopted under Rule 12b-1 under the 1940 Act formulated and approved by the particular company's board of directors, a majority of the members of which are not "interested persons" of such company within the meaning of section 2(a)(19) of the 1940 Act, if that company should adopt such a plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

FR Doc. 90-1099 Filed 1-17-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. IC-17300; 811-3096]

Interstate Capital Growth Fund, Inc.; Application for Deregistration January 10, 1990.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Interstate Capital Growth Fund, Inc.

Relevant 1940 Act Sections: Deregistration under section 8(f) and Rule 8f-1.

Summary of Application: The Applicant seeks an order declaring that it has ceased to be an investment company subject to the 1940 Act.

Filing Date: The application on Form N-8F was filed on August 22, 1989 and amended on December 6, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Any interested person may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m., on February 5, 1990, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of serivce. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 2700 NCNB Plaza, Charlotte, North Carolina 28280.

FOR FURTHER INFORMATION CONTACT: Bibb L. Strench, Staff Attorney, (202) 272-3033 or Karen L. Skidmore, Branch Chief, (202) 272-3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee. One may obtain a copy by going to the SEC's Public Reference Branch or by telephoning the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Applicant was organized under Georgia law as The CSC Performance Fund, Inc. on September 10, 1980. (Applicant adopted its present name on May 1, 1986.) On September 25, 1980, the Applicant filed a notification of

registration as an open-end, diversified management investment company under the 1940 Act on Form N–8A and its registration statement on Form N–1. The Applicant also filed its registration statement under the Securities Act of 1933 and registered an indefinite number of shares of its common stock, $1 par value, pursuant to Rule 24–f of the 1940 Act. The registration statement became effective on December 8, 1980 and the Applicant commenced its public offering on that date. Interstate Asset Management, Inc. served as investment adviser to the Applicant. A sister corporation of the investment adviser, Interstate/Johnson Lane Corp. ("Interstate/Johnson Lane"), served as principal underwriter.

2. In order to make available to the Fund certain benefits of Maryland law, Interstate Capital Growth Fund, Inc. ("Interstate-Maryland") was organized as a Maryland corporation on August 7, 1987 and the Applicant merged with and into Interstate-Maryland on September 28, 1987.

3. Sovereign Investors, Inc. ("Sovereign Investors") is an open-end, diversified investment company organized as a Delaware corporation. Sovereign Advisers, Inc. ("Sovereign Advisers") serves as investment adviser to Sovereign Investors. On March 29, 1989, the Board of Directors of the Applicant unanimously approved a proposed Agreement and Plan of Reorganization and Liquidation (the "Agreement"), including a Plan of Complete Liquidation and Dissolution (the "Plan"), among the Applicant, Interstate/Johnson Lane, Sovereign Investors and Sovereign Advisers. The Agreement was subject to the approval of shareholders of the Applicant. The proxy statement/prospectus of the Applicant and Sovereign Investors was mailed to shareholders of the Applicant on or about June 21, 1989. Definitive copies of the proxy statement/prospectus, which included the Agreement as an exhibit, were filed with the Commission on June 28, 1989. At a special meeting held on July 21, 1989, the holders of at least two-thirds of the Applicant's shares, present in person or by proxmy, approved the Agreement.

4. On July 21, 1989, the Applicant had 768,018.47 shares of common stock outstanding. On that date, the net asset value of the Applicant was an aggregate of $5,732,149.22 or $7.46 per share. Pursuant to the Agreement, all of the net assets of the Applicant (except assets reserved to meet remaining liabilities) were exchanged on July 21, 1989 for 454,932.478 shares of Sovereign Investors with a net asset value of $12.60 per share. On July 24, 1989, the Applicant's shareholders became holders of Sovereign Investors shares and each shareholders of the Applicant was credited with the number of shares of Sovereign Investors corresponding to such shareholder's shares of the Applicant on a relative net asset basis. On August 17, 1989, the Applicant distributed the Sovereign Investors shares to its shareholders on an equal net asset value basis in complete liquidation of such shareholder's interests. On the same date, the Applicant filed Articles of Dissolution with the State of Maryland and dissolved pursuant to Maryland law.

5. The net asset values per share of outstanding shares of the Applicant and Sovereign Investors, respectively, were each determined as of the close of business of the New York Stock Exchange on July 21, 1989. The valuation procedures employed by the Applicant and Sovereign Investors to determine net asset value were identical.

6. All expenses, fees and other charges associated with the reorganization have been or will be borne by Interstate/Johnson Lane and Sovereign Advisers. To date, such expenses have totalled $36,828. The first $20,000 of expenses will be paid by Sovereign Advisers. All remaining expenses will be borne by Interstate/Johnson Lane. The Applicant anticipates receipt of bills in the approximate amount of $14,000 for accounting and tax services, custodial services, transfer agent fees, and contingent taxes and other professional fees. In order to provide for the payment of these liabilities and obligations as bills are received and taxes are computed, the Applicant has placed $14,000 in a segregated final expenses account owned by Interstate/Johnson Lane. After all liabilities and obligations have been discharged, any balance remaining in such account will be distributed to the former shareholders of the Applicant as additional Sovereign Investors shares. If expenses should exceed the amount retained, Interstate/Johnson Lane will pay such expenses.

7. A further contingent liability of the Applicant involves a transaction occurring on January 5, 1989, when a representative of Interstate/Johnson Lane entered a sell order for 10,386 shares of the Applicant from the account of Louise W. Patrick and Katie Mae Holmes. Proceeds from the sale were $69,170.76. Ms. Patrick and Ms. Holmes deny having given the representative instructions to enter a sell order, and they refuse to settle the trade. The dispute is currently the subject of a proceeding before the North Carolina Securities Commission. In order to allow for the liquidation and dissolution of the Applicant, the amount of $69,170.76 has been transferred to a segregated litigation reserve account at Interstate/Johnson Lane, and the latter has agreed to pay any amount exceeding $69,170.76 which is ultimately required to be paid by or on behalf of the Applicant. In the event a formal proceeding is commenced, the Applicant would not be a party as the dispute is solely between Interstate/Johnson Lane and the former shareholder.

8. The Applicant had no securityholders and no assets as of the date of filing this application. At present, the Applicant is engaged only in those business activities necessary for the winding-up of its affairs.

9. As of the date of filing the Application, the Applicant was current in all filings required to be made pursuant to the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–1096 Filed 1–17–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27610; File No. SR–CBOE–89–34]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc.; Relating to Estabilsihing a Fee for the Non-electronic Submission of Trade Match Record Data

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 27, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Exchange proposed to establish a fee for the non-electronic submission of trade match record data. The proposed rule establishes a $500 per day fee which will be incurred by a clearing

member for any day on which that clearing member made a non-electronic submission for the first end-of-the-day trade match computer run. Under the proposed rule there are exceptions under which the fee will not be imposed. More specifically, a clearing member which has an established record of submitting data electronically will be allowed to use non-electronic submission without incurring the fee where the clearing member is unable to submit the data electronically on a given day. The fee will also not be imposed when a clearing member, with a demonstrated ability to submit all trade match record data by electronic submission, is unable to make electronic submissions due to an error, omission, or similar circumstance which is attributed solely to the Exchange. Finally, under unusual circumstances the Clearing Procedures Committee, with the approval of the President of the Exchange, may suspend application of the fee imposed by this rule. The text of the proposed rule change is as follows (the entire text is new).

Fee for Non-Electronic Submission of Trade Match Record Data

(a) Definitions. For purposes of the Rule, the following definitions shall apply.

(1) *Electronic submission* of trade match data to the Exchange means the transmission of data on a batch or real time basis electronically over phone lines and modems or over other electronic connections between the sender's and the Exchange's computer systems utilizing communications software acceptable to the Exchange. (The Exchange shall not unreasonably withhold consent to use specific communications software). Electronic submission would exclude submissions of data made on paper listings, punched cards, computer diskettes, magnetic tapes, and other methods not involving electronic transmission.

(2) *Established primary mode of electronic submission* means the principal method of submitting trade match data for First Pass by a Clearing Member or its agent is by electronic submission. A Clearing Member shall not have an established primary mode of electronic submission until it has submitted trade match data for First Pass solely by electronic submission on ten (10) consecutive business days. A Clearing Member which has an established primary mode of electronic submission will cease to have such established primary mode of electronic submission if such Clearing Member submits trade match data for First Pass partially or wholly by a method other than electronic submission on ten (10) consecutive business days.

(3) *First Pass* means the computer processing run or runs, designated by the Exchange as First Pass, in which trade match records submitted by all Clearing Members are combined on a preliminary basis for the purpose of providing feedback as to unmatched trades.

(4) "Trade match record" means the trade information required by Rule 6.51 for either the buy or the sell side of a transaction to be cleared by a Clearing Member.

(b) Fee. A fee of five hundred dollars ($500) shall be imposed on a Clearing Member for any day on which such Clearing Member submitted trade match record data for First Pass to the Exchange other than by electronic submission.

(c) Exceptions. (1) Inability by firm with established primary mode to submit electronically.

In the event a Clearing Member with an establsihed primary mode of electronic submission is unable to submit trade match record data for First Pass electronically on a given day, the fee under subsection (b) of this Rule shall not be imposed for submitting such data for First Pass on computer diskettes or magnetic tapes, provided such diskettes or tapes are of a size and type compatible with the Exchange's computer equipment.

(2) Inability by firm with electronic capability to submit due to Exchange problem.

In the event a Clearing Member with a demonstrated ability to submit all trade match record data for First Pass by electronic submission is unable to submit such data for First Pass electronically on a given day due to an error, omission, or similar circumstance attributable solely to the Exchange:

(A) the fee under subsection (b) of this Rule shall not be imposed on such Clearing Member for submitting such data for First Pass on computer diskettes or magnetic tapes, provided such diskettes or tapes are of a size and type compatible with the Exchange's computer equipment, and

(B) if such Clearing Member has an established primary mode of electronic submission, such day shall not be counted as a day on which the Clearing Member used a method other than electronic submission for purposes of determining whether it will cease to have an established primary mode of electronic submission.

(d) Suspension of fee under unusual circumstances. Under unusual circumstances which have affected or will affect the ability of a significant number of Clearing Members or their agents to submit trade match record data for First Pass by electronic submission, the Clearing Procedures Committee, with the approval of the President of the Exchange, may suspend the application of the fee imposed by this Rule for a period not to exceed seven (7) days at any one time (which period may be extended by additional suspensions), part or all of which suspension may be retroactive. Such a suspension order shall be in writing and shall state the reasons therefor. It shall be communicated to the membership by Exchange publication.

The proposed rule also contains examples illustrating how various provisions of the rule operate. These examples are available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC and at the principal office of the Exchange.

The Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for an equitable allocation of reasonable dues, fees, and other charges among CBOE members using the facilities of the Exchange. In addition, the Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to foster cooperation and coordination with persons engaged in clearing transactions in securities.

As the foregoing rule change is concerned solely with the imposition by the CBOE of reasonable dues, fees and other charges among its members, it has become effective immediately pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 8, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: January 11, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1178 Filed 1-17-90; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-27609; File No. SR-CSE-89-6]

Self-Regulatory Organizations; the Cincinnati Stock Exchange; Order Approving Proposed Rule Change and Amendment to Minor Rule Violation Plan Relating to Compliance with Surveillance Data Requests

I. Introduction

On November 13, 1989, the Cincinnati Stock Exchange ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to extend the Exchange's minor rule disciplinary plan to include members who fail to comply promptly with surveillance requests for information.

The proposed rule change was published for comment in Securities Exchange Act Release No. 27481 (November 28, 1989), 54 FR 50298 (December 5, 1989). No comments were received on the proposal.

II. CSE's Minor Rule Plan

Rule 19d-1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member oganizations.[3] In 1988, the Commission approved a minor rule violation plan for the CSE which provided the Exchange with a minor rule violation disciplinary system and a reporting system to the Commission for minor rule violations.[4] CSE Rule 8.14 authorizes the Exchange, in lieu of commencing a disciplinary proceeding before a hearing panel, to impose a fine not to exceed $2,500 on any member, member organization, or registered or nonregistered employee of a member organization for any violation of an Exchange rule which the CSE determines to be minor in nature.[5] CSE Rule 8.14 also permits any person to contest the Exchange's levying of a fine by submitting a written answer, at which time the matter will become a disciplinary proceeding subject to CSE Rules 8.1 through 8.13 and, where applicable, the reporting provisions of paragraph (c)(1) of Rule 19d-1 under the Act.

Under the CSE plan, for violations covered by the minor disciplinary rule plan, the Exchange is relieved from the current reporting requirement imposed by section 19(d)(1) of the Act for "final" disciplinary actions. In accordance with paragraph (c)(2) of Rule 19(d)(1) under the Act, CSE Rule 8.14 specifies those uncontested minor rule violations, with sanctions not exceeding $2,500, that would be exempt from the current reporting provisions of paragraph (c)(1) of Rule 19d-1 provided the Exchange gives notice of such violations to the Commission on a quarterly basis.

III. Description of the Proposal

The CSE's proposal would amend Rules 4.2 and 8.14 of the Exchange's Rules of the Board of Trustees. Rule 4.2 would adopt the following time parameters within which members would be required to respond to Exchange requests for trading data: (1) First request—10 business days; (2) second request—five business days; and (3) third request—five business days. Under the proposal, the third request letter would be sent to the member's Compliance Officer and/or Senior Officer.

Rule 8.14 would be amended to add violations of amended Rule 4.2 to the list of minor rule violations as to which the Exchange may impose fines. The Exchange's proposal would make the fine schedule of Rule 8.14 applicable to members who fail to comply with the specified time periods of Rule 4.2 for responding to Exchange requests for trading data. The fine schedule under CSE Rule 8.14 is as follows: (1) First offense, a fine of $100 for an individual and $500 for a member organization; (2) second offense, a fine of $300 for an individual and $1,000 for a member organization; and (3) subsequent offenses, a fine of $500 for an individual and $2,500 for a member organization.[6]

The Exchange states that the proposed rule change is similar to others filed by the various self-regulatory organizations [7] and is in keeping with an Intermarket Surveillance Group and Commission initiative to encourage firms to submit, in an automated format, customer and proprietary trading data that the Exchange may routinely request in connection with surveillance inquiries.[8] The Exchange also believes that the proposed rule change will expedite investigations and provide for immediate discipline of members who fail to respond in a timely fashion to information requests.

IV. Discussion and Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, with the requirements of section 6(b)(1) and (5) and section 19(d).[9] In particular, the Commission believes that extending the CSE's minor rule disciplinary plan to members who fail to comply with surveillance requests is consistent with the section 6(b)(1) requirement that an exchange have the capacity to enforce compliance by its members and associated persons with provisions of the Act, the rules thereunder, and the rules of an exchange. Further, the Commission believes that the proposed rule change furthers the section 6(b)(5) objectives of protecting investors and the public interest because increased compliance by members with regard to Exchange information requests will provide the Exchange with information on a more timely basis and thus put the Exchange in a better position to detect and prosecute fraudulent and deceptive acts and practices.

In addition, the Commission believes that the CSE's proposed changes to Exchange Rules 4.2 and 8.14 that grant the Exchange the ability to enforce member compliance with information

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[1] 15 U.S.C. section 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) (order approving amendment to paragraph (c)(2) of Rule 19d-1 under the Act). Pursuant to paragraph (c)(1) of Rule 19d-1, a self-regulatory organization ("SRO") is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Under paragraph (c)(2) of Rule 19d-1, any disciplinary action taken by the SRO for violation of an SRO rule that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated, minor violations as not final, the Commission permits the SRO to report violations on a periodic, rather than an immediate, basis.

[4] *See* Securities Exchange Act Release No. 26053 (September 1, 1988), 53 FR 34851 (September 8, 1988) (File No. SR-CSE-88-1).

[5] CSE Rule 8.14, entitled Imposition of Fines for Minor Violation(s) of Rules, contains a list of minor rule violations as to which the Exchange may impose such fines. Although the CSE's Board of Trustees makes the initial determination of whether a CSE rule violation is "minor" for purposes of CSE Rule 8.14, this determination is subject to Commission approval pursuant to section 19(d)(1) of the Act and paragraph (c)(2) of Rule 19d-1 under the Act.

[6] These time frames are calculated over a "rolling" 12-month period.

[7] *See, e.g.*, Securities Exchange Release No. 26737 (April 17, 1989), 54 FR 16438-I (April 24, 1989) (approval of Boston Stock Exchange minor rule violation enforcement and reporting plan). *See also*, New York Stock Exchange Rule 476A regarding imposition of fines for minor rule violations.

[8] *See, e.g.*, Securities Exchange Act Release No. 25859 (June 27, 1988), 53 FR 25029 (approving File Nos. SR-Amex-88-4 and SR-NYSE-87-23, proposed rule changes that require member firms to submit certain customer and proprietary trading information in an automated format).

[9] 15 U.S.C. Sections 78f(b)(1), (5) and 78s(d) (1982).

requests should assist the Exchange in its regulatory oversight capacity by ensuring that it receives member information in a timely fashion.[10] Moreover, the specific time parameters for the information requests proposed by the CSE allow members a reasonable period of time to produce the requested information while ensuring that the CSE receives the information in a timely manner. The CSE also has complete discretion to lengthen the response period for voluminous or difficult information requests or where a member shows good cause for non-compliance with the Exchange's time parameters.[11] Because the time parameters set forth by the Exchange in amended Rule 4.2 should help ensure that the Exchange receives information from members on a more timely basis, the Commission believes the Exchange can use this information to assist in the detection of fraudulent or deceptive practices. Further, the extension of Rule 8.14 to include members who fail to comply with the time parameters of Rule 4.2 should help expedite investigations and provide for immediate discipline of members who fail to respond in a timely fashion to information requests.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Dated: January 11, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1179 Filed 1-17-90; 8:45 am]

BILLING CODE 8010-01-M

[10] The Commission has previously approved the inclusion of violations of an administrative nature in minor rule disciplinary plans of other self-regulatory organizations. For example, the New York Stock Exchange ("NYSE") minor rule disciplinary plan includes violations by members who fail to submit books and records or to furnish information requested by the NYSE within a specified time period. NYSE Rule 476A. *See* Securities Exchange Release No. 24985 (October 5, 1987), 52 FR 38296 (October 15, 1987). *See also,* Securities Exchange Act Release No. 22415 (September 17, 1985), 50 FR 38600 (September 23, 1985) (order approving NYSE minor disciplinary rule violation plan) and Securities Exchange Act Release No. 27543 (December 15, 1989), 54 FR 53223 (December 27, 1989) (order approving amendments to the American Stock Exchange's minor rule violation plan).

[11] *See* letter from Craig R. Carberry, Vice President, Market Regulation, CSE, to Elizabeth Pucciarelli, Division, of Market Regulation, SEC, dated January 9, 1990.

[12] 15 U.S.C. Section 78s(b)(2) (1982).

[13] 17 CFR 200.30-3(a)(12) (1989).

[Release No. 34-27597; File No. SR-PHLX-89-58]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Execution of Foreign Currency Options/Futures Multi-Part Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 12, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self/regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX hereby proposes to amend its Rule 1068 relating to the execution of foreign currency options and futures multi-part orders. The text of the proposed rule change is as follows: As the language is new it would replace the current language in Rule 1068.

Rule 1068—Execution of Multi-Part Orders

A PBOT Member/PHLX FCO Participant wishing to initiate a foreign currency options-futures "multi-part order" may do so by following the steps given below.

(i) The initiator shall ascertain from the PBOT Member/PHLX FCO Participants in the crowd the best price at which a specific amount of the respective options could be bought (or sold) concomitantly with a sale or purchase of a stated amount of futures with the future at a given price.

(ii) The initiator may then execute the order against the best market established by step (i) above, provided that the option price is in between the individual option quote and the futures price is in between the individual futures quote.

If the initiating Participant also has an opposing match to the multi-part order, the Participant must follow steps (i) and (ii) above and must allow a reasonable amount of time for those present in the trading crowd to accept the terms to the multi-part order before crossing such order.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the multi-part order is to provide a mechanism for a firm to enter an order that has offsetting options and futures components and be assured that one leg of the order will not be executed without the other. It also provides for the execution to occur at a single net price. It thus extends the concept behind spreads and straddles to orders across the futures and options markets.

The proposed amendment to Rule 1068 would permit the trader to seek execution of the multi-part order without first querying the market as previously provided. It continues to require, however, that the trade be executed within the current quotations in the options and futures markets; thus leaving it up to the trading crowd to inform the trader if he attempts to execute the order outside of the individual current markets. The proposed amended rule change provides for faster execution of such orders by eliminating the querying of the markets in the individual legs of the order. Accordingly, execution time should be reduced by several seconds, which may be critical in volatile currency markets. The Exchange believes that the proposed rule change in this respect is consistent with recently adopted amendments to Chicago Board Options Exchange ("CBOE") and Chicago Board of Trade ("CBOT") rules pertaining to the execution of inter-regulatory spread orders for certain options orders, specifically the Standard and Poor's 100 Stock Index option ("OEX") and the Standard and Poor's 500 Index option ("SPX"/"NSX"/"SPL") and certain

futures orders specifically the CBOE 50 and 250 stock index futures contracts.[1]

The PHLX believes the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to further promote the mechanism of a free and open market and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 8, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Dated: January 9, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1180 Filed 1-17-90; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 26271 (November 10, 1988), 53 FR 46727. For example an inter-regulatory spread order could consist of a CBOE 250/OEX spread or a CBOE 250/SPX spread.

[2] 17 CFR 200.30-3(a)(12) (1989).

[Release No. IC-17297; File No. 812-7293]

Application For Exemption; Mutual Benefit Life Insurance Co.

January 8, 1990.

AGENCY: The Securities and Exchange Commission (the "Commission").

ACTION: Notice of Application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: The Mutual Benefit Life Insurance Company ("Mutual Benefit"), Mutual Benefit Variable Contract Account-11 of The Mutual Benefit Life Insurance Company (the "Account"), Directed Services, Inc. ("DSI") and Dreyfus Service Corporation ("DSC").

Relevant 1940 Act Sections: Exemption requested pursuant to Section 6(c) from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

Summary of the Application: Applicants seek an order to permit payment to Mutual Benefit from the assets of the Account of mortality and expense risk charges under the Certificates and from the accumulation value of the guaranteed death benefit charges under a Deferred Annuity.

Filing Dates: The Application was filed on April 11, 1989 and amended on September 27, 1989 and November 8, 1989. A notice was previously issued on the Application on August 22, 1989 (release No. IC-17117), and no request for a hearing was received on that notice. During the notice period, the first amendment was filed to reflect the addition of Dreyfus Vairable Investment Fund as an underlying investment option of the Account. The second amendment was filed to reflect the addition of Dreyfus Service Corporation as the principal underwriter for those Certificates issued by the Account the proceeds of which can be invested only in Dreyfus Variable Investment Fund.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this Application, or ask to be notified if a hearing is ordered. Any request must be received by the Commission by 5:30 p.m., on February 2, 1990. Request a hearing in writing, giving the nature of your interest, the reasons for the request and the issues you contest. Service the Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the Commission, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o Directed Services, Inc., P.O. Box 5179, FDR Station, New York, New York 10150-5179.

FOR FURTHER INFORMATION CONTACT: Wendell M. Faria, Staff Attorney, at (202) 272-3450, or Clifford E. Kirsch, Assistant Director, at (202) 272-2060.

SUPPLEMENTARY INFFORMATION: Following is a summary of the Application. The complete Application is available for a fee from either the Commission's Public Reference Branch (when applying in person), or the Commission's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Mutual Benefit is a mutual life insurance company organized in the State of New Jersey in 1845 and presently licensed to engage in the life insurance business in all 50 states and the District of Columbia. It is the 12th largest mutual life insurance company in the nation, based on total assets as of December 30, 1988 of $10.6 billion. Administrative services for the Certificates are provided at The Golden Financial Group, Inc., Customer Service Center, P.O. Box 5179, FDR Station, New York, New York 10150-5179. The Account is a separate investment account of Mutual Benefit established to act as a funding vehicle for a deferred annuity contract (the "Deferred Annuity") and an annuity certain contract (the "Annuity Certain") (referred to collectively herein as the "Certificates").

2. The Account is divided into divisions. Each division will invest in shares of a designated Series of either The Specialty Managers Trust (the "Trust") or the Dreyfus Variable Investment Fund (the "Fund"). The Trust

and the Fund are registered with the Commission as open-end management investment companies and have filed registration statements on Form N–1A. The Trust and the Fund are series-type mutual funds that contain Series, each of which will pursue different investment objectives and policies. The Account will issue certain Certificates which permit investment only in those divisions which invest in shares of the Trust and the Guaranteed Interest Division of the general account of Mutual Benefit.

3. Subject to certain restrictions, Certificate owners are permitted to allocate up to 25% of the Certificate's accumulation value to or from the Guaranteed Interest Division of the general account. The Guaranteed Interest Division currently credits a minimum interest at the effective rate of 4% for the Deferred Annuity and 5% for the Annuity Certain per year, compounded daily. Mutual Benefit may declare excess interest to the Guaranteed Interest Division at its sole discretion which will be guaranteed for one Certificate year.

4. Specialty Advisers Corporation and The Drefus Corporation will serve as Managers to the Trust and the Fund, respectively, and will appoint investment advisers to each Series of the Trust or Fund. Pursuant to a Distribution Agreement between Mutual Benefit and DSI, a wholly owned subsidiary of The Golden Financial Group, Inc. ("GFG"), DSI will act as Principal Underwriter and Distributor of the Certificates the proceeds of which are invested only in the Trust and the Guaranteed Interest Division of the general account of Mutual Benefit. DSC, a wholly owned subsidiary of the Dreyfus Corporation, and Mutual Benefit intend to enter into a Distribution Agreement by which DSC will act as Principal Underwriter and Distributor of the Certificates the proceeds of which are invested only in the Fund and the Guaranteed Interest Division of the general account of Mutual Benefit. DSI and DSC intend to enter into sales agreements with broker-dealers to solicit sales of the Certificates through registered representatives who are licensed to sell securities and variable insurance products including variable annuities. The registered representatives will be appointed by Mutual Benefit to sell the Certificates. The offering of the Certificates will be continuous.

5. The Certificates provide for the accumulation of values on a variable basis except to the extent that a portion of the accumulation value is allocated to the Guaranteed Interest Division of the general account of Mutual Benefit. Payment of annuity benefits will be on a fixed or variable basis. The variable aspects of the Certificates differ significantly from the fixed aspects in that the Certificate owner and the Annuitant assume the risk of investment gain or loss under a Certificate rather than Mutual Benefit. A Certificate owner directs the allocation of premium payments and accumulation value to the Account.

6. The Certificates are currently intended to be used in connection with either a retirement plan qualified under sections 408(a) and/or 408(b) of the Internal Revenue Code or a non-qualified plan.

7. The Deferred Annuiy is a group flexible purchase payment contract which provides for an initial purchase payment and for subsequent purchase payments if the Certificate owner so desires. There is, however, no obligation to make additional payments.

8. The Annuity Certain is a group immediate annuity which provides for payment of a single premium and allows for variable annuity payments to be made to the Annuitant.

9. Deferred loading at a maximum rate of 7.50% of each payment is deducted from each payment for purchase-related expenses. If the payment received at issue on one Certificate or several simultaneously purchased certificates exceeds specified limits, Mutual Benefit may reduce this load. The charge is allocated to cover distribution expenses. All deferred loading applicable to initial or additional purchase payments or single premium payments is imposed at the time of payment but is advanced to the divisions and recovered from the accumulation value in equal installments on the first and subsequent Certificate processing dates following the receipt and acceptance of the payment over a period specified in the Certificates. If the Certificate owner surrenders a Certificate, any remaining deferred loading will be deducted. For purposes of the sales load provisions of the 1940 Act, the deferred loading is a front-end sales load. Applicants are not relying on Rule 6c–8 in the conneciton with this charge.

10. Mutual Benefit makes a deduction from the accumulation value for premium or other state and local taxes as they are incurred. Currently, these charges range up to 3%.

11. In the Deferred Annuity, an administrative charge of $40 will be deducted in equal installments on each Certificate processing date from the accumulation value of a Certificate each year to reimburse Mutual Benefit for the anticipated actual cost of administration expenses relating to the Certificate. The amount of the administrative charge may be changed by Mutual Benefit to meet the anticipated actual cost of administrative expenses relating to the Certificate; however, the amount of the administrative charge is guaranteed not to exceed $60 annually.

12. In the Annuity Certain, an administrative charge of $60 annually will be deducted in equal installments on each Certificate processing date from the accumulation value of a Certificate. The amount of the administrative charge is guaranteed not to exceed $60 annually. An additional administrative fee of 0.25% is deducted in the Annuity Certain if the single premium payment is $100,000 or less. The fee is deducted in the same manner as the Deferred Load.

13. At any time while a Certificate is in effect, part of or all of the values under a Certificate may be surrendered for cash payment, or alternatively, the values under the Certificates may be applied to annuity options available at the time of surrender.

14. The Certificates provide that a maximum mortality and expense risk charge equal to 0.002477% of the asset values in each division of the Account will be deducted on a daily basis (equivalent to an annual charge of 0.90%). For the Deferred Annuity, approximately 0.55% is allocated to the mortality risk and 0.35% is allocated to the expense risk. In the Annuity Certain, approximately 0.45% is allocated to the mortality risk and 0.45% is allocated to the expense risk. The mortality risk assumed by Mutual Benefit arises from its obligation to continue to make annuity payments under the Certificates or income plan provisions of the Certificates, determined in accordance with the guaranteed annuity tables and other provisions of the Certificate, regardless of how long each annuitant lives and regardless of how long all payees as a group live. The mortality risk under the Deferred Annuity is the risk that, after annuitization or upon selection of an annuity option with a life contingency, annuitants will possibly live longer than Mutual Benefit's actuarial projections indicate, resulting in higher than expected payments during the payout phase, since the payment options are guaranteed not to be less than the tables discussed in the Deferred Annuity. In the Annuity Certain, the mortality risk assumed by Mutual Benefit relates to the fact that, at all times, Mutual Benefit will offer the option to convert the Annuity Certain, which does not provide for payments based on life contingencies, to one or

more annuity contracts that provide for payments based on life contingencies. The mortality risk assumed by Mutual Benefit is the risk that annuitants, or beneficiaries after the death of the annuitant, will choose one such option and will possibly live longer than Mutual Benefit's actuarial projections indicate, resulting in higher than expected payments during the payout phase, since any payment option is guaranteed not to be less than the tables discussed in the Annuity Certain. In addition, Mutual Benefit assumes a risk that the charges for the administrative expenses may not be adequate to cover such expenses.

15. The Deferred Annuity also provides for a guaranteed death benefit charge annually. The guaranteed death benefit charge for the Certificates is based on the amount of the guaranteed death benefit and is imposed at a rate of $0.60 per $1,000 of guaranteed death benefit per year. However, the Account may offer other variable annuity contracts in the future. These variable annuity contracts may charge up to $1.20 per $1,000 of guaranteed death benefit and is approximately equal to (assuming a hypothetical gross return of 5% annually) 0.05% of net assets. For higher hypothetical gross returns this charge, when expressed as an asset charge, would be less, while for lower hypothetical gross returns it would be more.

16. Applicants represent that they have reviewed publicly available information regarding the level of the mortality and expense risk and guaranteed death benefit charges under comparable variable annuity contracts currently being offered in the industry, taking into consideration such factors as current charge levels or annuity rate guarantees and the markets in which the Certificates will be offered. Based upon the foregoing, Applicants represent that the maximum charges under the Certificates are within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation.

17. Applicants do not believe that the deferred load imposed under the Certificates will necessarily cover the expected costs of distributing the Certificates. Any "shortfall" will be made up from the general account assets which will include amounts derived from risk charges. Mutual Benefit has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Certificates will benefit the Account and the Certificate owners. Mutual Benefit will keep and make available to the Commission, upon request, a memorandum setting for the basis for this representation.

18. Applicants further represent that the Account will invest only in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of the funds, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

Applicants' Conditions

Applicants agree that if the requested order is granted such order will be expressly conditioned on Applicants' compliance with the undertakings set forth above.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–1181 Filed 1–17–90; 8:45 am]

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[Rel. No. IC–17299; File No. 812–7218]

Application for an Order; Travelers Insurance Company, et al.

January 9, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("Act").

Applicants: The Travelers Insurance Company ("The Travelers"), The Travelers Timed Growth Stock Account for Variable Annuities ("Account TGS"), The Travelers Timed Money Market Account for Variable Annuities ("Account TMM"), The Travelers Timed Aggressive Stock Account for Variable Annuities ("Account TAS"), The Travelers Timed Bond Account for Variable Annuities ("Account TB") (Accounts TGS, TMM, TAS, and TB collectively, the "Timed Accounts"), Travelers Equities Sales, Inc. ("TESI"), and H.C. Copeland Financial Services, Inc. ("Copeland") (TESI and Copeland together, the "Timers").

Relevant 1940 Act Sections: Order requested (1) under section 6(c) of the Act exempting Applicants from sections 26(a)(2) and 27(c)(2) of the Act, and (2) pursuant to section 17(d) of the Act and Rule 17d–1 thereunder.

Summary of Application: Applicants seek an order (1) to the extent necessary to permit the proposed method of deducting fees from the Timed Accounts for certain market timing services provided by the Timers or certain other unaffiliated market timers, and (2) to permit the Timed Accounts to enter into agreements with The Travelers which will provide that The Travelers will deduct the market timing fees from the Timed Accounts which are, in turn, paid by The Travelers to the Timers.

Filing Date: The Application was filed on January 17, 1989 and amended on October 26, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on February 5, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, The Travelers Insurance Company, One Tower Square, Hartford, Connecticut 06183.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rappa, Attorney at (202) 272–2622, or Clifford E. Kirsch, Assistant Director at (202) 272–2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 253–4300).

Applicants' Representations

1. The Travelers is a stock insurance company chartered in 1864 in Connecticut and licensed to do a life insurance business in all states of the United States. The Travelers is a wholly-owned subsidiary of The Travelers Corporation, the publicly-held parent of The Travelers group of companies.

2. Accounts TGS and TMM were established on October 31, 1986, and Accounts TAS and TB were established on January 2, 1987. The Timed Accounts are registered with the Commission as open-end diversified management companies. In 1987, The Travelers separated the assets allocable to the

Timed Annuity Holders from the assets allocable to the Non-Timed Annuity Holders in order to avoid any possibility that switches by the Timers would have any adverse or prejudicial impact on the interests of Non-Timed Annuity Holders.[1]

3. Accounts TGS and TMM receive investment advice from The Travelers Investment Management Company ("TIMCO") pursuant to an investment advisory agreement between TIMCO and these Accounts.

4. Keystone Custodian Funds, Inc. ("Keystone") furnishes investment management and advisory services to the Accounts TAS and TB pursuant to investment advisory agreements between Keystone and these Accounts.

5. TESI and Copeland, both registered investment advisers affiliated with The Travelers, provide market timing services to the Timed Annuity Holders. These services are rendered pursuant to individual investment advisory agreements between the Timers and the Timed Annuity Holders authorizing the Timers to transfer the Timed Annuity Holder's accumulation units from one investment alternative to another pursuant to timing strategies described in the advisory contracts.

6. The Timed Annuity Holders pay the Timers a fee quarterly, calculated as a percentage of assets that are timed. Currently, the TESI fee is equal to an annual rate of 2.0% on accounts of $1 million or less, 1.5% on accounts of $1 million to $5 million, and 1.0% on accounts more than $5 million. Concurrent with the implementation of the proposed changes in the method of paying the market timing fees, TESI will change its fees to 1.25% of the current value of assets. Thus, the proposed change will reduce the cost of the market timing services to Timed Annuity Holders contracting with TESI. Copeland charges a $30 application fee and an amount equal to an annual rate of 1.25% on the average daily net assets that it times. Copeland's fees will not be altered in connection with the proposed changes.

7. Currently, the fees for market timing services are not asset charges imposed against Time Account assets, nor are they contract charges taken out of Timed Account assets. The fees can be paid by arranging for quarterly partial surrenders of contract value, and The Travelers remits the fees to the appropriate Timer. Most Timed Annuity Holders have chosen to pay by this method. Timed Annuity Holders can also pay the fee by sending a check to the timing service or by credit card.

8. As described in more detail below, and in the Application, the Applicants request this order to modify the existing method of paying the market timing fees. Such modification is necessitated by changes to the Internal Revenue Code ("Code") effective January 1, 1989, restricting withdrawals from annuity contracts issued in connection with annuity plans under section 403(b) of the Code.

9. After January 1, 1989, payment for market timing services by pre-authorized partial surrenders from accumulations which represent new money would cause the Annuities to fail to qualify for favorable tax treatment under section 403(b) of the Code. To avoid the adverse tax consequences and to facilitate the convenient payment method utilized by most Timed Annuity Holders, The Travelers proposes to modify the current payment method. Under the proposed arrangement, The Travelers will deduct the amount necessary to pay the fees daily from the Timed Accounts and will, in turn, pay this amount to the Timers. The Travelers will not retain any portion of the fees and will not be compensated for any costs incurred in connection with the payment of deduction of the fees.

10. To implement the proposed arrangement, the individual market timing agreements will be amended to reflect the new payment method. The agreements will continue to be between the Timers and Timed Annuity Holders. The Travelers, however, will be a signatory to the amended agreements and will be solely responsible for payment of the fee to the Timers. The Timers will seek affirmative written approval of the amended market timing agreements from each Timed Annuity Holder within one year of implementation of the proposed payment method. The Travelers will coordinate the Timers' efforts during this one-year period. The Travelers and the Timers represent that they will use their best efforts to contact each Timed Annuity Holder in accordance with a proposed schedule for contacting the Timed Annuity Holders, which is attached as Exhibit A to the Application.

11. In conjunction with implementing the proposed payment method, the disclousre contained in the prospectus for the Timed Accounts will also be modified. In addition to a description of the new payment method, information regarding the market timing fee will be included in the prospectus fee table. In this regard, the market timing fee will be listed as a separate expense in the expense portion of the fee table and will be included in the example for each of the Timed Accounts. In addition, a footnote will be added to the fee table reminding Timed Annuity Holders that they may discontinue market timing services and thereby avoid the fee for these services at any time by transferring to a Non-Timed Account. The Timers will continue to provide the Timed Annuity Holders with a detailed document which fully and clearly discloses the amount and purpose of the market timing fees, as is required by the Investment Advisers Act of 1940.

12. Beginning with the first quarter after implementing the proposed payment method, Applicants represent that they will send a quarterly mailing to each Timed Annuity Holder containing a quarterly statement prepared by The Travelers and showing a reasonable estimate of the dollar amount of the market timing fees deducted from that person's account during the quarter. The quarterly mailing will also contain a newsletter prepared by the Timers which, among other things, will show the performance of the timing strategy(ies) for the prior twelve-month period. The performance information in the newsletter for the timing strategies will be compared to that of the Non-Timed Account with the most comparable investment objectives and policies.[2] However, if, at some point in the future, the Applicants determine that comparison to one or more Non-Timed Accounts would be inappropriate or misleading, the Timers may compare the performance of the timing strategy(ies) to an appropriate index instead of a Non-Timed Account. Applicants represent that they will not implement this alternative, however, unless the SEC staff has acquiesced in advance.

13. In connection with the request for relief from sections 26(a)(2) and 27(c)(2) of the 1940 Act, The Travelers and the Timed Accounts represent that the proposed method of deducting the market timing fee is appropriate, in the

[1] An exemptive order providing the relief from section 17 of the Act and the rules thereunder necessary to effect the segregation was issued on September 17, 1987 (File No. 812-6671).

[2] It is the opinion of Applicants that the quarterly newsletter being sent to Timed Annuity Holders does not constitute sales literature within the meaning of Rule 34b-1 under the Act because (1) the investment company performance data is limited to information required by an exemptive order, (2) the newsletter will be sent only to contractowners of the Timed Accounts and the performance data contained therin will be used only for the limited purposes outlined in the exemptive application, and (3) the newsletter will not be used as promotional material for investment company securities and will not accompany any other promotional material for such securities. Applicants therefore do not request exemptive relief from Rule 34b-1 under the Act.

public interest, and consistent with the purposes of the Act. Because the selection of the timing service and, thus, payment of the fee is at the discretion of the individual Timed Annuity Holder, the proposed payment method does not present any of the abuses (or potential abuses) that the Act is designed to prevent. The proposed payment method will be advantageous for Timed Annuity Holders with contracts issued under 403(b) plans because it will enable them to pay for the timing services with pre-tax dollars accumulated under the contract rather than with after-tax dollars. In addition, the proposed payment method will not result in increased costs to the Timed Annuity Holders. In fact, it will result in reduced timing fees for individuals who have agreements with TESI, and will be advantageous to all Timed Annuity Holders because they will pay a fee charged against their assets as incurred daily rather than pay quarterly in advance through the current partial surrender procedure. Timed Annuity Holders will not be obligated to pay the market timing fee if they no longer desire the market timing services. Timed Annuity Holders will be fully informed of and will have the opportunity to approve the proposed payment method individually by choosing not to reject new market timing agreements with the Timers that provide for the new payment method, and collectively at a contractowners meeting by voting to amend the Timed Accounts' Distribution and Management Agreements authorizing The Travelers to deduct the fees. The Travelers does not intend to profit from the proposed payment method.

14. Although the Applicants may be deemed to be affiliated persons or affiliated persons of such persons under section 2(a)(3) of the Act, Applicants do not believe that the proposed modification of the payment method constitutes a joint enterprise or arrangement within the meaning of section 17(d) or Rule 17d–1. There will be no joint arrangement between either or both of the Timers and any of the Timed Accounts. Rather, the individual market timing agreements are between the Timed Annuity Holders and the Timers, with The Travelers as a signatory and solely responsible for payment of the fee. Timed Annuity Holders may select the market timing service they wish to use, select an unaffiliated Timer, and discontinue the service at any time. Because the Timed Accounts do not "participate" in the individual market timing agreements, there is no joint enterprise between the Timed Accounts and their affiliates with respect to the provision of market timing services. Thus, Applicants do not concede that relief is necessary with respect to the provision of market timing services. Each of the Timed Accounts will, of course, be parties to an agreement with The Travelers pursuant to which The Travelers will be paid amounts that it, in turn, will pay to the Timers. However, Applicants do not concede relief from section 17(d) and Rule 17d–1 is necessary for the Timed Accounts and The Travelers to enter into such agreements because the agreements between The Travelers and the Timed Accounts should be exempt from section 17(d) and Rule 17d–1 pursuant to Rule 17d–1(d)(5).

15. In connection with the request for an exemption from section 17(d) and Rule 17d–1, Applicants represent that the proposed arrangements are appropriate, in the public interest, and consistent with the purposes of the 1940 Act for the reasons set forth above. Timed Annuity Holders will be fully informed of the terms of the proposed payment method through information provided in connection with the amendment to then-existing timing agreements and through the proxy materials requesting their approval of the agreement between The Travelers and the Timed Account. Timed Annuity Holders may select unaffiliated Timers who agree to an arrangement substantially identical to the proposed payment method and who are satisfactory to The Travelers. The Travelers will not benefit as it will not retain any portion of the fees deducted and will not be compensated for costs incurred in connection with the payment or deduction of market timing fees. Applicants believe that no benefits will inure to The Travelers to the detriment of the Timed Accounts as a result of the proposed modification to the payment method. The participation of the Timed Accounts, The Travelers and the Timers, will be on an equal basis and will not disadvantage any of the Timed Accounts because the proposed payment method merely alters the manner in which the existing fees are deducted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–1097 Filed 1–17–90; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 1150]

Certification of Strategic Minerals Imported From South Africa

I have reviewed the list of minerals certified on January 7, 1987, pursuant to section 303(a)(2) of the Comprehensive Anti-Apartheid Act of 1986, as amended. Based on that review, I hereby certify that quantities of the following revised list of strategic minerals currently imported from South Africa are essential for the economy or defense of the United States and are unavailable from reliable and secure suppliers:

Andalusite
Antimony
Chromium (includes ferrochromium)
Cobalt
Manganese (includes ferromanganese and ferrosilicon manganese)
Platinum Group Metals
Pyrophyllite, variety wonderstone (also known as Grade A Lava)
Rutile and Rutile Substitutes (includes titanium-bearing slag)
Vanadium (includes ferrovanadium)
Zircon (includes baddeleyite and zirconium-bearing materials)

This certification replaces the list certified on January 7, 1987 and shall be reported to the Congress and published in the Federal Register.

Dated: December 22, 1989.

Lawrence S. Eagleburger,

Acting Secretary of State.

[FR Doc. 90–1142 Filed 1–17–90; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Announcement of Fifth Meeting of Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee

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

ACTION: Meeting announcement.

SUMMARY: This notice announces the fifth meeting of the Heavy Truck Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC established this subcommittee at the February 1988 meeting to examine research questions regarding crashworthiness and crash avoidance for vehicles over 10,000 pounds GVWR.

DATE AND TIME: The meeting is scheduled for Tuesday, January 30, 1990, from 10 a.m. until 5 p.m.

ADDRESS: The meeting will be held in Room 8334 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 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 the MVSRAC Charter.

At this meeting, the subcommittee will receive reports from the Tire and Antilock Test Procedures Task Forces which were established by the subcommittee at previous meetings.

The Tire Task Force, established at the third meeting of the subcommittee, was charged with analyzing the relevant issues and facts with regard to truck tire safety (traction) research and developing a position paper for deliberation by the subcommittee. The task force was asked to address, but not be limited to, the following issues: (1) The extent of the public domain tire data, (2) definition of what tire characteristics are important for safety (i.e., those operational situations where tire preformance becomes critical), (3) existing capability for carrying out the needed measurements, and (4) methods for acquiring, analyzing, and presenting data.

At the fourth meeting of the subcommittee, an Antilock Test Procedures Task Force was established to assist the subcommittee in its discussion of alternative test procedures. This task force will attempt to assemble all of the existing objective data available on the major test procedure issues, such as: (1) Which maneuvers are appropriate?, (2) Which surfaces should be used?, (3) How should surfaces be specified and/or monitored?, (4) How should brakes be applied?, (5) How should drive-axle only systems be tested?, (6) How should tractors be loaded?, and (7) How should trailers be tested? The majority of this meeting will address this issue. The goal is to reach a consensus agreement on procedure(s) to determine if antilock meets minimum performance criteria for efficiency and stability.

The meeting is open to the public, and participation by the public will be determined by the Subcommittee Chairman.

A public reference file (Number 88–01—Heavy Truck Subcommittee has been established to contain the products of the subcommittee and will be open to the public during the hours of 8 a.m. to 4 p.m. at the 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: William A. Leasure, Jr., Chairman, Heavy Truck Subcommittee, Office of Research and Development, 400 Seventh Street SW., Room 6220, Washington, DC 20590, telephone: (202) 366–5662.

Issued on: January 12, 1990.

Howard M. Smolkin,

Chairman, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 90–1176 Filed 1–17–90; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Federal Deposit Insurance System Study; Correction

AGENCY: Department of the Treasury.

ACTION: Correction to previous notice.

SUMMARY: The Secretary of the Treasury (Secretary) is conducting a study of the Federal deposit insurance system, as directed by Section 1001 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, 103 Stat. 183 (1989). Pursuant to FIRREA, the Secretary intends to complete the study within 18 months from the date of enactment of FIRREA (August 9, 1989) and to submit to the United States Congress a final report containing a detailed statement of findings, conclusions, and recommendations, if any, for administrative and/or legislative action determined by the Secretary to be appropriate.

The notice requesting comments on the study was published in the **Federal Register** on December 6, 1989. Following publication, the National Credit Union Administration (NCUA) requested a change in that portion of the notice concerning the National Credit Union Share Insurance Fund. Pursuant to the NCUA request, the language of the first full paragraph of the third column on page 50471 of the December 6, 1989 notice should read as follows:

"*Capital Adequacy.* The Secretary seeks comments on whether insured credit union capital levels are adequate and whether the National Credit Union Share Insurance Fund is adequately capitalized. Credit unions deposit one percent of insured shares into the Share Insurance Fund. These deposits are treated as assets on the books of the credit unions and as an equity account by the Share Insurance Fund. Premiums paid by credit unions are expensed. Comments are requested on how this arrangement is likely to work in a crisis affecting a number of credit unions, or the credit union industry as a whole."

DATE: Comments must be received by March 9, 1990.

ADDRESS: Parties interested in providing comments for the Secretary's Federal Deposit Insurance System Study are requested to submit ten (10) copies of written data, views, or arguments relevant to the study.

Such copies should be sent to: Federal Deposit Insurance System Study, Department of the Treasury, Room 3025, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: For further information, please contact: Gordon Eastburn, Director of the Office of Financial Institutions Policy, at 202–566–5337; Brian S. Tishuk, Financial Analyst, at 202–566–4212; or Elizabeth Shiry, Study Coordinator, at 202–566–2505.

January 10, 1990.

David W. Mullins, Jr.,

Assistant Secretary (Domestic Finance).

[FR Doc. 90–1083 Filed 1–17–90; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATE: The meeting will be held February 12, 1990.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:AS:4, 901 D Street SW., Washington, DC 20024, Telephone No. (202) 252–8128 (not a toll-free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), that a closed meeting of the Art Advisory Panel will be held on February

12, 1990, in Room 224 beginning at 9:30 a.m., Aerospace Center Building, 901 D Street SW., Washington, DC 20024.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of title 5 of the United States Code, and that the meeting will not be open to the public.

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Fred T. Goldberg, Jr.,

Commissioner.

[FR Doc. 90-1074 Filed 1-17-90; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 90–1076.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 18, 1990.

The time of the meeting has been rescheduled from 10:00 a.m. to 2:30 p.m.

This meeting will be closed to the public.

DATE AND TIME: Tuesday, January 23, 1990, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 437g, 438(b), and title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Wednesday, January 24, 1990, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTER TO BE CONSIDERED: Proposed Allocation Regulations—"Consideration of Final Rules."

DATE AND TIME: Thursday, January 25, 1990, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes
Draft Advisory Opinion:
Draft AO 1989–31, Congressman Don Edwards
Voting Systems Standards Final Report
Status of Presidential Audits
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: (202) 376–3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 90–1305 Filed 1–16–90; 8:45 am]
BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 16, 1990—55 FR 1533.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: January 18, 1990—11:00 a.m.

CHANGE IN THE MEETING: The meeting has been postponed until 2:00 p.m.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,
Secretary.
[FR Doc. 90–1306 Filed 1–16–90; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 11, 1990.

TIME AND DATE: 10:00 a.m., Thursday, January 18, 1990.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Dennis Wagner* v. *Pittston Coal Group, et al.*, Docket No. VA 88–21–D. (Issues include whether MSHA and its agents are "persons" under Section 105(c) of the Mine Act and are subject to the discriminatory prohibitions of Section 105(c).)
2. *Ronald Tolbert* v. *Chaney Creek Coal Corporation*, Docket No. KENT 86–123–D. (Consideration of a Motion to Reopen.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay 1–800–877–8339 for Toll Free.

Jean H. Ellen,
Agenda Clerk.
[FR Doc. 90–1222 Filed 1–16–90; 8:45 am]
BILLING CODE 6735–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 55, No. 6/Tuesday, January 9, 1990/796.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Wednesday, January 17, 1990.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote that the business of the Board required canceling this meeting at this time and that no earlier announcement was possible.

FOR MORE INFORMATION, CONTACT: Bea Hardesty, (202) 382–6525.

Dated: January 12, 1990.

Bea Hardesty,
Federal Register Liaison Officer.
[FR Doc. 90–1215 Filed 1–16–90; 8:45 am]
BILLING CODE 7533–01–M

Corrections

Federal Register
Vol. 55, No. 12
Thursday, January 18, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL TRADE COMMISSION

16 CFR Part 414

Trade Regulation Rule; Deception as to Transistor Count of Receiving Sets Including Transceivers

Correction

In proposed rule document 90-576 appearing on page 879 in the issue of Wednesday, January 10, 1990, make the following correction:

In the second column, in the seventeenth line, the date reading, "January 15," should read "January 25,".

BILLING CODE 1505-01-D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Small Business Competitiveness Demonstration Program; Proposed Subcontract Reporting System Test Plan and Reporting Form

Correction

In notice document 90-268 beginning on page 535 in the issue of Friday, January 5, 1990, make the following corrections:

1. On page 537, in the 2nd column, in the 1st paragraph, in the 10th line, "of" should read "or".

2. On page 538, the flowchart should have been preceded with the following headings:

Attachment A-Flowchart for Reporting Subcontracting Activity

Subcontract Reporting System Test Plan

Small Business Competitiveness Demonstration Program

3. On page 540, in the first column, in the paragraph designated 3., in the eighth line, between "number" and "shall" insert "in their subcontracts. The prime contract number".

4. On the same page, in the same column, in the last line of the column, "subcontracting" should read "contracting".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[T.D. ATF-292; Ref. Notice Nos. 658, 668, 676, 686]

RIN 1512-AA81

Label Disclosure for Brandy and Whisky Treated With Wood (87F212P)

Correction

Rule document 90-640, beginning on page 1061 in the issue of Thursday, January 11, 1990, was published incorrectly in the proposed rule section.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8278]

RIN 1545-AK04

Mortality and Morbidity Tables for Insurance Products for Which There Are No Applicable Commissioners' Standard Tables

Correction

In rule document 89-29842 beginning on page 52933 in the issue of Tuesday, December 26, 1989, make the following corrections:

On page 52935, in the first column, in the table, under "Type of Contract", item 7 should read "Credit life insurance", and in the corresponding entry in the next column, "Tables" should read "Table".

BILLING CODE 1505-01-D

federal register

Thursday
January 18, 1990

Part II

Department of Health and Human Services

Agency for Toxic Substances and Disease Registry

Medical Waste Report; Availability for Review and Comment; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-15]

Availability of Medical Waste Report

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This **Federal Register** notice announces the expected availability of the ATSDR Medical Waste Tracking Act Report, "The Public Health Implications of Medical Waste: A Report to Congress," for review and comment.

This notice solicits any significant information, including unpublished data, which may aid in the revision of the draft Report.

The Medical Waste Tracking Act of 1988 (Pub. L. 100-582) (42 U.S.C. 6992) amended the Solid Waste Disposal Act and mandated that within 24 months after enactment the Administrator of ATSDR shall prepare for Congress a report on the health effects of medical waste.

Availability: The draft Report, "The Public Health Implications of Medical Waste: A Report to Congress," is expected to be available to the public on or about January 31, 1990. A 60-day public comment period will be provided for the Report, starting from its actual date of release to the public. The close of the comment period for the draft Report will be indicated on the front of the Report.

Requests for Draft Report: Requests for the draft Report should be sent to Maureen Y. Lichtveld, M.D., Medical Waste Group, Agency for Toxic Substances and Disease Registry, Mail Stop E-32, 1600 Clifton Road, Atlanta, GA 30333. One copy of the Report will be forwarded free of charge when it becomes available.

Send one copy of all comments and five copies of all supporting documents to Dr. Lichtveld at the above address by the end of the comment period. All written comments and other data submitted in response to this notice and the draft Report should bear the docket control number ATSDR-15.

FOR FURTHER INFORMATION CONTACT: Maureen Y. Lichtveld, M.D., Medical Waste Group, Agency for Toxic Substances and Disease Registry, Mail Stop E-32, 1600 Clifton Road, Atlanta, GA 30333, Telephone (404) 639-0610 or FTS 236-0610.

SUPPLEMENTARY INFORMATION: On November 1, 1988, the President signed the Medical Waste Tracking Act of 1988, which amended the Solid Waste Disposal Act (42 U.S.C. 6992h). Section 11009 of the Medical Waste Tracking Act states:

> Within 24 months after the enactment of this section, the Administrator of the Agency for Toxic Substances and Disease Registry shall prepare for Congress a report on the health effects of medical waste, including each of the following—
>
> (1) A description of the potential for infection or injury from the segregation, handling, storage, treatment, or disposal of medical wastes.
>
> (2) An estimate of the number of people injured or infected annually by sharps, and the nature and seriousness of those injuries or infections.
>
> (3) An estimate of the number of people infected annually by other means related to waste segregation, handling, storage, treatment, or disposal, and the nature and seriousness of those infections.
>
> (4) For diseases possibly spread by medical waste, including Acquired Immune Deficiency Syndrome and hepatitis B, an estimate of what percentage of the total number of cases nationally may be traceable to medical wastes

Medical waste is defined by the Medical Waste Tracking Act as any solid waste which is generated in diagnosis, treatment, or immunization of humans or animals, in research pertaining thereto, or in the production or testing of biologicals. Medical waste does not include any hazardous waste listed in the Solid Waste Disposal Act or any household waste so defined in subtitle C of this Act (42 U.S.C. 6903 (40)).

This notice announces the projected availability of the draft Report. The Report has undergone extensive internal review and has been subjected to scientific and technical peer review by experts outside the Federal government. We are now announcing its availability and encouraging the public's participation and comment on the further development of the Report.

Dated: January 11, 1990.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 90-1133 Filed 1-17-90; 8:45 am]

BILLING CODE 4160-70-M

federal register

Thursday
January 18, 1990

Part III

Environmental Protection Agency

Drinking Water Coolers That Are Not Lead Free; Notice and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL-3705-8]

Drinking Water Coolers That Are Not Lead Free

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final and proposed lists of drinking water coolers that are not lead free and request for comments.

SUMMARY: This notice is issued pursuant to the lead Contamination Control Act of 1988 (LCCA), Public Law 100-572, enacted on October 31, 1988, which amends the Safe Drinking Water Act (SDWA). The LCCA added section 1463 to the SDWA. This section requires that the Environmental Protection Agency (EPA), after notice and opportunity for public comment, publish a list of drinking water coolers, by brand and model, which are not lead free. The list must separately identify each brand and model of drinking water cooler which has a lead-lined water tank. In carrying out this provision, EPA is to use the best information available to the Agency. EPA is to revise and republish this list from time to time, as may be appropriate, as new information or analysis becomes available regarding lead contamination in drinking water coolers. This notice announces a final list of water coolers which are not lead free, including a final list of water coolers with lead-lined tanks, and proposes additional coolers to be included on a future list.

DATES: Written comments on the proposed list of additional coolers should be submitted on or before March 5, 1990.

ADDRESSES: Send written comments to Lead Docket, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy of supporting documents is available for review at EPA in the Drinking Water Docket, Room EB-15, 401 M Street SW. Washington, DC 20460. To make an appointment for access to the docket, call (202) 382-3027 between 8:30 a.m. and 4:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Peter Lassovszky, Office of Drinking Water (WH-550E), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8499. Information also may be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States (except Washington, DC and Alaska), Puerto Rico, and the Virgin Islands may reach the Safe Drinking Water Hotline at (800) 426-4791; callers in the Washington, DC area and Alaska may reach the Hotline at (202) 382-5533. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 8:30 a.m. to 4:00 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

I. Background

A. Purpose and Summary

On October 31, 1988, the Lead Contamination Control Act of 1988 was enacted. This legislation provides for programs to help reduce exposure to lead-contaminated drinking water, especially for children. Its major provisions include a mandate for the Consumer Product Safety Commission (CPSC) to order the repair, replacement, or recall and refund of drinking water coolers that EPA has identified as containing lead-lined water tanks; a ban on the manufacture or sale in interstate commerce of drinking water coolers that are not lead free; Federal and State programs to help schools evaluate and respond to lead contamination in drinking water, including State and Federal technical and (if appropriations are available) possibly financial assistance, and the expansion of lead screening programs for children to be administered by the Centers for Disease Control. Under the LCCA, the term "lead free" means,

> with respect to a drinking water cooler, that each part or component of the cooler which may come in contact with drinking water contains not more than 8 percent lead, except that no drinking water cooler which contains any solder, flux, or storage tank interior surface which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface contains more than 0.2 percent lead. * * * SDWA section 1461(1).

The LCCA further provides that, for the purposes of the Consumer Product Safety Act, all drinking water coolers identified by EPA on the list published under section 1463 as having a lead-lined tank shall be considered to be "imminently hazardous consumer products" within the meaning of section 12 of that Act (15 U.S.C. 2061). The CPSC, after notice and opportunity for comment, including a public hearing, is required to

> issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after the enactment of the Lead Contamination Control Act of 1988. SDWA section 1462.

In addition, the LCCA requires that by August 1, 1989,

> each State shall establish a program * * * to assist local educational agencies in testing for and remedying, lead contamination in drinking water from coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies * * * [this] program shall include measures for the reduction or elimination of lead contamination from those water coolers which are not lead free and which are located in schools. Such measures shall be adequate to ensure that * * * [by February 1, 1990] * * * all such water coolers in schools under the jurisdiction of [local educational agencies] are repaired, replaced, permanently removed, or rendered inoperable unless the cooler is tested and found (within the limits of testing accuracy) not to contribute lead to drinking water. SDWA section 1464(d).

Under the LCCA, the term "local educational agency" means any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965; the owner of any private, nonprofit elementary or secondary school building; and the governing authority of any school operating under the defense dependent's education system provided for under the Defense Dependent's Education Act of 1978. The term "school" means any elementary school or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 and any kindergarten or day care facility.

B. Lead in Drinking Water Coolers

Investigation by EPA's Office of Drinking Water revealed that water coolers can sometimes be a significant source of lead in drinking water. In 1988, a report to Congress by the U.S. Agency for Toxic Substances and Disease Registry entitled "The Nature and Extent of Lead Poisoning in Children in the United States" warned that some drinking water coolers may contain lead solder and/or lead-lined water tanks that release lead into the water they distribute. This warning was based upon an EPA analysis of 22 water coolers at a U.S. Navy facility and data supplied to the report's authors by EPA's Office of Drinking Water. The source of the lead problem was lead solder and, in some cases, lead-lined water tanks used inside the water coolers. Based on limited test results using EPA's guidance document and testing protocol, EPA believes that the most serious cooler contamination problems are associated with water coolers that have water reservoir tanks lined with lead-containing materials.

In response to a Congressional survey in the winter of 1988, three major manufacturers, the Halsey Taylor Company, EBCO Manufacturing Corporation, and Sunroc Corporation, indicated that lead solder had been used

in at least some models of their drinking water coolers. The manufacturers' submissions indicated that close to 1,000,000 water coolers contained lead solder but that lead based solder was not used on any water-way connections after December 17, 1987. None of the submissions indicated that water tanks had ever been designed or intentionally manufactured with a lead lining. Although the industry has existed since before the 1920's, only very limited information was provided concerning water coolers manufactured prior to the 1960's; hence, the actual number of coolers containing lead may be much greater.

C. Public Comments on EPA's Proposed Lists

On April 10, 1989, EPA proposed at 54 FR 14320 lists of drinking water coolers that are not lead free and coolers with lead-lined water tanks. Comments were received from the Halsey Taylor Company, EBCO Manufacturing Company, Sunroc Corporation and the International Bottled Water Association (IBWA). EPA is revising its proposed list in response to comments received and is inviting public comment on a proposed list of additional drinking water coolers identified as containing lead-lined tanks. EPA also invites comment on deletion of certain bottled water coolers manufactured by the Sunroc Corporation.

1. Drinking Water Coolers That Are Not Lead Free

The Halsey Taylor Company commented that they had manufactured drinking water coolers for the Haws Drinking Faucet Company (Haws) since 1984. These coolers have been manufactured under the Haws brand name for distribution and carry model designations different from those used by Halsey Taylor for Halsey Taylor brand water coolers. Halsey Taylor indicates that certain Haws brand coolers manufactured for Haws by Halsey Taylor from November 1984 through December 18, 1987, should be added to EPA's list of non-lead-free coolers because these coolers contain two tin/lead solder joints. The model designations for these units are as follows:

HC8WT; HC8WTH; HC14WT; HC14WTH; HC14WL; HC16WT; HC4W; HC6W; HC8W; HC14W; HC4F; HC4FH; HC8F; HC8FH; HC14F; HC14FH; HC14FL; HCBF7; HCBF7D; HCBF7HO; HWC7 *; HWC7D *; HC2F; HC2FH; HC5F and HC10F.

* These model numbers were previously shown under the Halsey Taylor brand on the EPA's proposed list of drinking water coolers that are not lead free.

These models are included in this notice under "Revised List of Drinking Water Coolers that are not Lead Free."

Halsey Taylor has also stated that Halsey Taylor model numbers 5656FTN, 5800FTN, and 8880FTN should be deleted from EPA's list because these water fountains do not actively cool (i.e., have no refrigeration unit) drinking water and are not subject to the requirements of the LCCA. In addition, they requested that model S3/5/10C be deleted since they had previously erroneously identified this as containing a lead based solder on waterway connections. EPA has deleted these models from this list. Finally, Halsey Taylor has provided an alternate list of drinking water cooler catalog numbers for the remaining Halsey Taylor coolers on EPA's proposed list of coolers that are not lead free. The proposed list designates certain water coolers by model series. Within a model series, gallonage capacity and other variations may exist. These variations are reflected in the specific model number designations which appear in product catalogs. Halsey Taylor states that owners are more likely to be familiar with the model number designations in the product catalogs. EPA is including both sets of model designations in this notice.

The EBCO Manufacturing Company commented that their bottled water coolers models CBI(H), DB2, and DB1R(H) did not belong on this list. The information regarding these models on EPA's proposed list reflected information contained in a letter by EBCO dated January 21, 1988, addressed to the U.S. House of Representatives Subcommittee on Health and the Environment of the Committee on Energy and Commerce. EBCO has brought to EPA's attention another letter dated February 12, 1988, sent to the Subcommittee, which stated that subsequent to 1961, the company used only lead free solder on all bottled water cooler parts in contact with water. EPA has decided in view of this information to delete these models from the list.

In addition, EBCO reports that upon further investigation of products manufactured many years ago, the following additional models of pressure bubbler coolers which EBCO previously reported as containing one 50–50 tin-lead solder joint should be deleted from EPA's list as well. The company reports that these models do not contain a lead solder joint as previously reported but rather a solid brass valve that is lead free under the LCCA. EPA is therefore deleting the following models from the list:

WEEC03
WEEH03
WEFC15
WEFH03
WELC07
WELC16
WW07T
WERC07
WFE10
WEEC05
WEFC03
WEFC20
WEFH08
WELC08
WELH07
WEFH03
WERC13
WEEC03–OX
WEEC07
WEFC08
WEFC13–OX
WEKC03
WELC13
WELH08
WEFH08
WETC05
WEEC10–OX
WEEC10
WEFC10
WEFC20–OX
WEKC05
WELC14
WEMC07
WEPC05
WETC10
DP5F
WEEC13
WEFC13
WEKC05–OX
WELC05
WELC15
WEMC13
WERC05
WEWC07
DP10F

Finally, EBCO states that water cooler models CP10–50, DP20–50, DP13A–50, CP3–50 and DP14A–50/60 were manufactured by EBCO exclusively for export. The company further states that "EBCO Manufacturing Company has never manufactured these models for sale in interstate commerce or sold these models in interstate commerce. * * *" Accordingly, EPA has deleted these models from the list of drinking water coolers that are not lead free.

The Sunroc Corporation informed EPA in a letter dated April 20, 1989, that lead solder was never used to directly join drinking water-bearing lines in models reported to the EPA as having lead solder as a secondary seal. Sunroc indicated that the lead containing secondary seal on the Sunroc units cited in EPA's proposed list is a precautionary backup to the primary seal. The primary seal, a stainless steel weld, does not contain lead and is the only material that is in contact with drinking water. Sunroc states that there is no reason to believe the primary seal will not hold and that the secondary seal will not come into contact with the drinking water and that only a limited number of such units were manufactured. Both the Sunroc Corporation and IBWA have requested that EPA delete models USB–1, USB–3, T6Size 3, BC and BCH from the list. EPA is deleting these Sunroc models from this list. However, because of the remote possibility of water contact as described above, EPA solicits public comment on whether these units should be included in EPA's next list.

Comments received from IBWA support EBCO and Sunroc concerns as described above.

2. Drinking Water Coolers With Lead-Lined Tanks

Comments on EPA's proposed list of coolers with lead-lined tanks were received from the Halsey Taylor

Company. From the serial numbers published by EPA on the six models of water coolers listed as having lead-lined tanks, Halsey Taylor estimates that the approximate dates of manufacture for these units were 1957, 1959 (2 units), 1965, 1966, 1969 and 1973 (2 units). The company states that they have never designed nor intentionally manufactured a water cooler tank with any interior lead linings. They state that they do not deny that molten tin used to coat the interior of tanks in the past may have been accidentally contaminated at certain times but the company believes that any such contamination occurred on an infrequent and random basis. They stated that this belief is supported by a series of geographically dispersed water tests conducted by Halsey Taylor and information gathered by Halsey Taylor on water tests previously conducted by Water Test Corporation on Halsey Taylor coolers. The company further indicates that they discontinued coating the interior of tanks with *any* material after June 1978. Given the above assertions, Halsey Taylor requested that EPA limit the scope of any list to certain water coolers manufactured during possible "suspect" time periods.

In the April 10, 1989 Federal Register notice of its proposed list of drinking water coolers with lead-lined tanks, EPA stated that only a limited number of water coolers (22) were examined and that because of this limited sampling, EPA could not determine how many other coolers within each model number contain a lead-lined tank. While the manufacturer has estimated the approximate dates of manufacture of the individual units cited by EPA, no explanation nor information has been provided to support a conclusion that defective units are limited to those dates or to the 1957 through 1973 time period. In addition, while high lead levels in the drinking water from a cooler can be an indicator of a lead-lined water tank, low levels do not necessarily mean the absence of a lead-lined tank. Given the limited nature of the data available to EPA and the possible random nature of the occurrence of lead linings stated by Halsey Taylor, EPA has insufficient basis to limit the list to any particular time period(s).

Finally, in their comments, Halsey Taylor also stated that EPA had found drinking water coolers of other manufacturers that were found to contain lead levels in the interior surface of their tanks above the 0.2% limit of the LCCA. Halsey Taylor inquired as to why EPA had not listed those coolers. In testing drinking water coolers and listing coolers with lead-lined tanks, EPA takes into account the accuracy in the testing procedure and inherent variations that occur in all results. In the models listed to date, EPA has confidence that samples taken clearly exceed the statutory limit taking into account these limitations of testing methodology. The models questioned by Halsey Taylor (and other models) did not meet this test. EPA is working to improve testing methodology for cases where low level measurements are required. However, EPA must continue to list drinking water coolers within the limits of accuracy of its analytical techniques.

II. Final List of Drinking Water Coolers That Are Not Lead Free as of January 18, 1990

Halsey Taylor Company

The Halsey Taylor Company reported use of lead solder in numerous models of water coolers manufactured under the Halsey Taylor brand name between 1978 and December 18, 1987. The model series numbers are:

WMA–1; SWA–1; S3/5/10D; S300/500/1000D; SCWT/SCWT–A; DC/DHC–1; BFC–4F/7F/4FS/7FS;

The model number designations which appear in Halsey Taylor Product Catalogs are:

WM8A–1, WM14A–1, WM14A–1–BL, WM16A–1, SW4A–1, SW8A–1, SW14A–1, S3D, S5D, S10D, S300–2D, S500–5D, S1000–10D, SCWT4A, SCWT8A, SCWT14A, SCWT14A–FL, DC–1, DHC–1, BFC–4F, BFC–4FS, BFC–7F and BFC–7FS.

In addition to these Halsey Taylor models, Halsey Taylor indicates that the following Haws brand coolers manufactured for Haws by Halsey Taylor from November 1984 through December 18, 1987, are not lead free because they contain two tin/lead solder joints. The model designations for these coolers are:

HC8WT; HC8WTH; HC14WT; HC14WTH; HC14WL; HC16WT; HC4W; HC6W; HC8W; HC14W; HC4F; HC4FH; HC8F; HC8FH; HC14F; HC14FH; HC14FL; HCBF7; HCBF7D; HCBF7HO; HWC7; HWC7D; HC2F; HC2FH; HC5F and HC10F.

EBCO Manufacturing Company

The EBCO Manufacturing Company (whose products are also marketed under the names "Oasis," "Kelvinator," "Aqua-Dry," "Culligan," and "Aquarius" and were also marketed by Westinghouse Corp.) identified two categories of drinking water coolers which are not lead free, as defined by the LCCA.

The first category consists of all pressure bubbler water coolers with shipment dates from 1962 through 1977. These units contain one 50–50 tin-lead solder joint on the bubbler valve. Model numbers are not available for products in this category.

The second category consists of pressure bubbler coolers produced from 1978 through 1981. These units each had one 50–50 tin-lead solder joint. The model numbers are:

CP3	DP15W
13P	DPM8H
DP8A	DP16M
PX–10	DP7S
DP7MH	DP7WM
DP14M	CP10
DP15MW	DP3R
DP7SM	DP10X
EP10F	DP5M
CP3H	DP13M
13PL	CP3M
DP8AH	DP13S
DP12N	DP7WMD
DPM8	7P
DP15M	DP3RH
DP5S	C10E
DP13SM	DP7M
WTC10	DP13M–60
CP5	CP5M
DP20	DP14S
DP13A	EP5F

III. Final List of Drinking Water Coolers With Lead-Lined Tanks as of January 18, 1990

The following is a list of model numbers of the drinking water coolers which may have lead-lined water tanks.

MODEL NUMBERS OF WATER COOLERS WHICH HAVE AT LEAST ONE UNIT WITH A LEAD-LINED TANK [1]

Brand	Model series
Halsey Taylor	WM8A
Halsey Taylor	WT8A
Halsey Taylor	GC10ACR
Halsey Taylor	GC10A
Halsey Taylor	GC5A
Halsey Taylor	RWM13A

[1] EPA has tested a limited number of water coolers from various manufacturers by cutting them open to determine whether they contain lead-lined tanks. EPA has found at least one or two units of each of the model series identified on this list to contain a lead-lined tank. EPA does not know how many other coolers within each model series contain a lead-lined tank. The model series and corresponding serial numbers of the tanks found to contain a lead lining are as follows: Halsey Taylor WM8A: 838269; WM8A: 67409774; WT8A: 66 421303; WT8A: 66 421268; GC10ACR: 65 361559; GC10A: 69 598593; GC10A: 142378; GC10A: 113383; GC5A: 142646; GC5A: 142648; GC5A: 142645; GC5A: 13147; RWM13A: 834774; RMW13A: 834765.

If an owner has a water cooler in any of the above listed model series, the drinking water cooler may contain a lead-lined water tank. EPA advises that owners of such coolers report this information to the CPSC. Information should be referred to the Consumer Product Safety Commission,

Washington, DC 20207. After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers. Since the hearing process may be lengthy, interested parties may call the CPSC HOTLINE (1-800-638-2772) for a status update.

IV. Proposed List of Drinking Water Coolers With Lead-Lined Tanks

EPA invites comment on the following proposed additions to the list of drinking water coolers with lead-lined water tanks.

Halsey Taylor Company

Since the April 10, 1989, publication of its proposed list of drinking water coolers with lead-lined tanks, EPA has examined several additional Halsey Taylor tanks submitted by the Portland, Maine and Fairfax Country, Virginia School Districts, Colby College, Maine, and the Minnesota State Health Department and determined that they contained lead-lined tanks. The model and serial numbers of the units are as follows:

Model series	Serial No.
WM14A	843034
WM14A	843006
WT11A	222650
WT21A	64309550
WT21A	64309542
LL14A	64346908

EPA is unable to determine, based upon existing information, how many other units under these model series contain lead-lined tanks.

The following information is extracted by EPA from a report containing confidential business information dated August 4, 1988, from Mr. Robin G. Munden, Vice President, General Counsel and Secretary, Household Manufacturing to Frank Brauer, Consumer Product Safety Commission. The report related a manufacturing malfunction discovered by Halsey Taylor which resulted in a small amount of lead containing coating material being unintentionally applied to the interior surface of copper storage tanks and Halsey Taylor efforts to deal with this problem. The report was obtained by EPA from the CPSC and because of confidential business information contained in the report, EPA had deferred publication of this information pending discussion with Halsey Taylor. EPA has since obtained agreement with Halsey Taylor to extract from their report the necessary information required by the LCCA.

At the time of the detected malfunction in February 1979, Halsey Taylor coated the external surface of water cooler storage tanks to improve the efficiency of the refrigeration system. According to Halsey Taylor, the coating was applied by immersion of the water storage tank into a vessel containing hot molten solder. The company states that prior to June 5, 1978, the solder coating contained 100 percent tin and both the internal and external surfaces of the water tanks were coated. After June 5, 1978, the company indicates that the manufacturing process was changed from coating both surfaces to coating only the external surface by closing all openings to the inside of the tank. In addition, the company reported that the solder content was also changed from 100 percent tin to an alloy of 35 percent tin/65 percent lead.

It was determined by Halsey Taylor that a periodic and random malfunction of a piece of manufacturing equipment resulted in a pin hole opening which allowed "a very small quantity" of coating to enter and coat the internal bottom section of the storage tank. The company conducted tests and estimated that 5 percent to 10 percent of the 36,879 units manufactured by the problem process during the problem period of June 1, 1978 through March 15, 1979, suffered from this defect. The company stated that it undertook a number of steps to correct the defective manufacturing process including switching to 100 percent tin for external tank coating, identifying defective units, investigating potential health effects, and locating and repairing defective units. According to the CPSC, this corrective action is still ongoing.

A report of these voluntary activities was submitted by Halsey Taylor to the CPSC for review. The CPSC reviewed the report, and concluded in August of 1979 that the information provided was not sufficient to justify further action at that time. The model series, catalog and serial numbers of the suspect units produced from June 1, 1978 to March 15, 1979 as indicated by Halsey Taylor in their report to CPSC include the following:

Model Series

RC-8-A	SC-16-W
HBW-8-A	S-3C-1
WM-14-SH	HT-1530
WM-16-A	RC-12-A
SW-4-A	HBW-13-A
WT-8-A*	WM-14-CB
WT-14-W	WM-16-W
SC-8-A	SW-6-A
SC-14-SP	WT-14-A
WT-16-A	SC-21-W
SC-14-A	S-10-C
SC-14-SH	WC-7-A
SC-20-A	RWM-13-A*
S-5-C	WM-14-A
XP-16-W	WM-14-BL
RWM-8-A	WM-20-A
WM-8-A*	SW-13-A
WM-14-W	WT-14-CB
WM-16-BL	WT-20-A
SW-8-A	SC-14-CB
WT-14-FL	SC-16-A
WT-16-W	LL-14-A
SC-14-FL/FR	LC-1530
SC-14-W	

*These models are listed here for completeness of the above list; however, EPA is not seeking comment since they are included on the final list we are publishing today.

Catalog Model Numbers

RC-8-A	CP-3-A
RWM-8-A	RC-12-A
WM-8-A-1	HBW-8-A
WM-14-W	WM-14 (SH)
WM-16-BL-1	WM-16-A-1
SW-4-A	SW-8-A
WT-14-FL	WT-8-A
WT-16-W	WT-14-W
SC-14-FL/FR	SC-8-A
SC-14-W	SC-14-SP
SC-21-W	SC-16-W
S-5-C	TF-16-A
HR-5-A	LC-1530
RP-8-A-3	SJ-6-A-3
OHT-103-A	RP-19-A
CP-3-CB	WC-7-A-1
RC-8-A-GF	RC-12-A-GF
RWM-8-A	HBW-13-A
WM-14-A-1	WM-14-CB
WM-14-BL-1	WM-16-W
WM-20-A-1	SW-13-A
SW-6-A	WT-14-A
WT-14-CB	WT-16-A
WT-20-A	SC-14-A
SC-14-CB	SC-14-SH
SC-16-A	SC-20-A
LL-14-A	S-3-C-1
S-10-C	HT-1530
HR-9-A	SJ-10-A-3
RP-10-A-3	RP-20-W
02510-A	XP-16-W

Serial Numbers of Suspect Water Coolers

From	To	From	To
00960145	00960183	00989688	00989932
01073003	01073005	01083066	01083070
01084580	01084580	01085966	01086225
01100810	01100897	01106342	01106344
01120865	01120899	01124024	01124048
01131313	01131347	01137619	01137623
01144339	01144349	01146300	01146399
01146676	01146699	01147266	01147299
01149627	01149699	01151659	01151699
01155757	01155999	01157432	01157449
01161125	01161199	01162830	01164901
01163301	01163400	01164093	01164112
01165651	01165662	01166410	01166699
01166945	01166969	01167845	01168499
01171401	01171578	01171600	01171609
01171837	01171837	01171845	01171856
01171883	01171883	01172329	01172653
01172665	01172800	01174353	01174422
01174794	01174794	01174800	01175039
01177500	01177763	01177771	01177784
01178071	01178099	01179101	01179200
01179579	01179582	01179759	01179761

Serial Numbers of Suspect Water Coolers—Continued

From	To	From	To
01180363	01180371	01180435	01180494
01180831	01180900	01181300	01181690
01181745	01182099	01182900	01183231
01183391	01183556	01183581	01184085
01184371	01184899	01185500	01186229
01186306	01186505	01187550	01187557
01187803	01188264	01188315	01188316
01188600	01188979	01189926	01190191
01191512	01192297	01192301	01192400
01192414	01192663	01195500	01195964
01196491	01196699	01196921	01196949
01196951	01196970	01197515	01197799
01197860	01198599	01198751	01199050
01199101	01199300	01199571	01199870
01200001	01200080	01200100	01200329
01201522	01201896	01202362	01202432
01202900	01203539	01203541	01203550
01204166	01204492	01204706	01204706
01204760	01204762	01205300	01205314
01205327	01205327	01205335	01205399
01205427	01205448	01206400	01206459
01206800	01206824	01207138	01207422
01207601	01207799	01207919	01208099
01208103	01208132	01208201	01208279
01208895	01208939	01209800	01209844
01212400	01213219	01214501	01214537
01214575	01214600	01214800	01214880
01215201	01215299	01215500	01215844
01215950	01216114	01216201	01216673
01217150	01217166	01217350	01217359
01217700	01217721	01217800	01218649
01219730	01220504		

If an owner has any of the above listed model series and a serial number matching one of the above listed serial numbers (both conditions must be met), the drinking water cooler may contain a lead-lined water tank. EPA advises that owners of such coolers report this information to the CPSC. Information should be referred to the Consumer Product Safety Commission, Washington, DC 20207. After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers. Since the hearing process may be lengthy, interested parties may call the CPSC HOTLINE (1–800–638–2772) for a status update.

V. EPA's Plans for Updating the Lists; Guidance on Use of the Lists

The CPSC sent requests, dated November 14 and 20, 1988, to its field offices to conduct additional investigations of lead in drinking water coolers. Information from this inquiry has been reviewed by EPA but has not revealed any additional units for listing. Should other efforts identify additional drinking water coolers that are not lead free, EPA will revise and update the list as necessary.

EPA invites comment on the accuracy and completeness of the proposed lists in section IV only. Anyone aware of drinking water coolers that are not lead free which are not included on the above lists may submit this information to EPA. Such information should include the name of the manufacturer, brand name, model number, and serial number, identification or a brief description of the lead-containing component, its location in the water transport pathway, and its percent lead content if known and test method used. In addition, so that EPA may verify the information received, commenters are requested to include their name, address, and source of information relied upon to support their findings.

While the presence of lead in drinking water can indicate the presence of lead in a water cooler, the public is reminded that under the LCCA, the term "lead free" is based upon the lead content of the component part itself rather than upon an analysis of the lead content of the drinking water in contact with the component. Additionally, as stated previously, before the CPSC may issue an order requiring repair, replacement, or recall and refund of drinking water coolers with lead-lined tanks, it must provide an opportunity for comment and public hearing. Because commenters' claims may be challenged by manufacturers, importers, or others, commenters may be required to provide persuasive evidence regarding the tank lining and should be prepared to do so until such time as the recall, repair, or replacement of the cooler ordered by CPSC has been completed.

Five factors contribute to high lead levels in drinking water dispensed by coolers: (1) The presence of lead-lined water tanks and lead-containing components; (2) the presence of corrosive waters (e.g., waters having low pH or alkalinity); (3) prolonged contact time between the water and materials of construction containing lead which can occur as a result of infrequent use of the water cooler; (4) age (i.e., water from newer coolers or devices containing lead materials or new plumbing connections containing lead solder tends to have higher lead levels); and (5) presence of lead in water entering the cooler due to upstream plumbing or other sources of lead. Careful testing and interpretation of results is necessary to distinguish the water cooler as a cause of the lead in the water as opposed to other sources upstream of the cooler. In addition, any existing problems may be exacerbated if a building's electrical system is grounded to the plumbing system.

Given the limited information available to EPA on lead-containing drinking water coolers, owners are urged not to rely upon the above lists for assuring the quality of drinking water from water coolers. EPA recommends that the drinking water from individual coolers (as well as other outlets) in a building be tested to determine if lead is present in water from a particular cooler and, if so, at what level. If lead is found to be present, additional analysis should be performed to determine whether the source of lead is from the water cooler, the plumbing, or both.

EPA has prepared a guidance document and testing protocol which explains how to test individual drinking water coolers to determine the extent of lead contamination from water coolers. Although directed towards schools and other educational institutions, this manual, "Lad in School Drinking Water," should prove useful for other buildings as well. EPA urges that water taps, in addition to those connected to coolers, be tested for lead where such taps may be contaminated by lead and supply water for drinking or cooking. Copies can be obtained by writing to the Superintendent of Documents, Government Printing Office, Washington, DC 20402. "Request Lead in School Drinking Water, GPO stock number 055–000–00281–9. Enclose a check or money order for $3.25." Please do not send cash.

Dated: January 10, 1990.

Robert H. Wayland III,

Acting Assistant Administrator for Water.

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federal register

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January 18, 1990

Part IV

Department of Agriculture

Cooperative State Research Service

Revisions to Solicitation of Application for Competitive Research Grants Program for Fiscal Year 1990; Forestry Research; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Revisions to the Solicitation of Applications for the Competitive Research Grants Program for Fiscal Year 1990; Forestry Research

Notice is hereby given that the Notice of the Competitive Research Grants Program for Fiscal Year 1990; Solicitation of Applications for the Competitive Research Grants Program, found at 54 FR 47066–47070 (November 8, 1989) is revised by deleting the specific program area of Forest Biology (14.0), and inserting in lieu thereof a new, broader program area of Forestry Research that includes Forest Biology as a subprogram area. All proposals received in response to the Forest Biology Program (14.0) will be automatically transferred to the appropriate subprogram area described in this solicitation or returned to the investigator upon request. Further, section 639 of Public Law 101–161, an Act Making Appropriations for Rural Development, Agriculture and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes, prohibits Cooperative State Research Service (CSRS) from using the funds available for the Competitive Research Grants Program for fiscal year 1990 to pay indirect costs on research grants awarded competitively that exceed 25 per centum of the total direct costs under each award. Except to note the applicability of section 639 of Public Law 101–161 to all grants awarded under the 1990 Competitive Research Grants Program, the Solicitation found at 54 FR 47066–47070 remains unchanged with regard to other program areas described therein.

The authority for the Competitive Research Grants Program is contained in section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). Under this Program, subject to the availability of funds, the Secretary may award competitive research grants, for periods not to exceed five years, for the support of research projects to further the programs of the Department of Agriculture (USDA). Proposals may be submitted by an State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation, or individual. Proposals from scientists at non-United States organizations will not be considered for support.

The total amount available for grant awards in the forestry research program area during fiscal year 1990 is approximately $3,743,652. Long-term projects, up to a maximum of five years, are encouraged. Grants will be awarded by CSRS to the extent that funds are available.

Applicable Regulations

This program is subject to the provisions found at 7 CFR part 3200 (49 FR 5570, February 13, 1984, as amended by 50 FR 5499, February 8, 1985). These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects. In addition, the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, as amended, and the Governmentwide Debartment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, apply to this program.

Revised Specific Research Area To Be Supported in Fiscal Year 1990

Grants will be awarded to support forestry research in selected subareas of (1) engineering, processing, and utilization of timber resources, with special emphasis on the chemical, physical, mechanical, and engineering properties of wood and wood materials and (2) forest biology, including biotechnology, that are considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important wood utilization and forestry problems. This grants program recognizes that innovative approaches and enhanced levels of funding are essential as we seek ways to sustain and improve the economic and environmental value of our forest resources.

Consideration will be given to research proposals that address fundamental questions in the program area described below and that are consistent with the long-range missions of USDA. Basic guidelines are provided to assist members of the scientific community in assessing their interest in the program area and to delineate certain important subareas where new information is vitally needed. However, these guidelines are also meant to be flexible and should not detract from the creativity of potential investigators. USDA encourages the submission of innovative projects in the so-called "high-risk" category, as well as those that may have greater probability of success.

Workshops or symposia that bring together scientists to identify research needs, update information, or advance an area of research are recognized as an integral part of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this program area will be considered for partial or, if the total cost is modest, complete support. Proposals for workshops or symposia will be due at the same time that other proposals in the subject area are due, and will be evaulated in competition with other proposals in the appropriate forestry research subprogram area.

Individual awards for recent doctoral graduates: USDA encourages individuals to apply for a grant who (1) have earned their doctoral degree in a biological science, physical science or engineering after January 1, 1987, or will have earned their degree not later than June 7, 1990; (2) are United States citizens; (3) have obtained commitments from a State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization or corporation for the conduct of research; (4) have made prior arrangements for research with a scientific advisor at the institution where the research will be conducted; and (5) have interests in research that fall within the program area described in this solicitation. While such individuals specifically are encouraged to submit proposals for competitive grants, it must be noted that no preference is given to such individuals in determining the grant awards. All individuals and eligible entities, whether or not they meet the above criteria, are welcomed to submit proposals and their proposals will be evaluated objectively under the applicable award criteria.

The forestry program area is divided into the two subprogram areas outlined below and funding will be divided equally between them. Proposals submitted in response to this solicitation must be identified as to the subprogram area under which they are to be considered for funding (i.e., Improved Utilization of Wood and Wood Fiber, or Forest Biology). A separate peer panel will be utilized to review proposals in each subprogram area.

Wood utilization. USDA will fund proposals concerning the improved utilization of wood and wood fiber. Public and private forests in the United States contain one of our most important renewable natural resources, which provides a continuing supply of wood

for industrial materials, chemicals, and energy, as well as other resources and benefits. National requirements for wood, wood fiber, and chemical products, however, increasingly demand the development of innovative and economical conversion processes that effectively utilize total available wood resources. Thus, as the diverse demands placed upon forest resources grow, USDA is encouraging research leading to improved wood and wood product utilization and development of more efficient harvesting, processing and management practices as they affect wood utilization.

Forest biology. USDA will fund proposals concerning forest biology (including biotechnology). Forest systems are dominated by long-lived trees in either planted or natural stands that may vary in composition from one species to complex mixtures of many species. These primarily undomesticated populations of forest trees, while dominant, are but one component of larger communities of diverse numbers and combinations of associated organisms. Productivity of the forest ecosystem is thus dependent upon the many complex processes and interactions among trees, other organisms and the physical factors of the environment. While many of these processes and interactions have been identified, studied and described, very little is known about underlying basic biological mechanisms and the impacts of potential environmental changes upon them.

The following specific research area (program area) and guidelines are provided as a base from which proposals may be developed:

14.0 Forestry Research

14.1 Improved Utilization of Wood and Wood Fiber

Improved wood utilization practices depend upon a continually advancing scientific foundation of basic research in wood properties and fundamental concepts of wood science. This program subarea encourages basic research that addresses critical barriers to improved wood utilization, providing the scientific base from which new research and development can proceed. The program subarea will place emphasis on the following:

Wood Chemistry and Biochemistry represents an important area where new basic information is vitally needed and where breakthroughs have virtually unlimited potential for expanding wood utilization. Basic questions that need to be addressed include principles governing the biological, physical or chemical reactions in wood and wood-base materials. Examples of research subjects of interest include conversion to products, deterioration mechanisms, new wood treatment chemistry, lignocellulosic polymer modification, surface chemistry and fundamental advances in adhesives.

Physical/Mechanical Properties of Wood and Basic Wood Processing Technology constitutes an area of investigation in which an improved base of scientific knowledge can ensure future development of new materials, products and processes. Research is encouraged that furthers an understanding of basic mechanisms associated with the structure, physical properties, and basic processing characteristics of wood and wood-base materials. Examples of such research include, but are not limited to, anatomy and ultrastructure, wood formation, viscoelasticity, heat and mass transfer phenomena, lignocellulosic modification, particle/fiber consolidation, surface and defect evaluation methods, non-destructive property evaluation, and materials science principles.

Structural Wood Engineering relates to the structural performance of wood and wood-base materials as individual components and in systems. Significant improvements in the use of wood will depend on the development of an expanded scientific base of knowledge. The goal of research in this subprogram is to stimulate innovative approaches in the structural use of wood. Examples of relevant research in this area are reliability-based design, performance modeling and behavior of wood/non-wood composites, new approaches in fasteners and connectors, moisture and environmental effects, and basic failure mechanisms.

Forest Engineering Research that emphasizes impact of engineering practices upon the safety of forest operations and the ergonomics of forest system components will also be considered in this program. Examples of such research include studies of engineering-system-related stand regeneration; engineering characteristics of trees, stands, and soils; and systems for controlling and monitoring equipment. Research on the development of equipment, instrumentation and control systems should contain a significant portion of work involving effects of equipment and instrumentation on wood quality or wood products.

14.2 Forest Biology (including Biotechnology)

The primary goals of the Forest Biology program subarea are to promote and fund research that will further the basic knowledge of mechanisms of biological processes in forest organisms and systems and that will contribute to the health and productivity of the forest resource. Emphasis will be placed on research proposals that deal with the woody plant component of the forest system. This program subarea will support research in the following:

Genetic Structure and Function is an area of research in which new basic knowledge and technology development are critically needed to support future efforts in more intensive forest management. Forest organisms, by virtue of their wide distribution and abundance in both natural and managed ecosystems, offer unique opportunities to analyze, identify and utilize a broad spectrum of variations and adaptations that still persist in the gene pools of existing populations.

Research should address the genetic limits to the health and productivity of woody species, including: Development of techniques for genetic engineering, including those for DNA transfer systems and for determining molecular mechanisms of gene expression; elucidation of mechanisms of morphogenesis at the cellular and organismal levels, including those controlling the development of productive plants from tissue or cell culture; identification and characterization of valuable genes and simply-inherited traits; and determinations of the organization, structure, and function of genes.

Mechanisms of Interactions in Forest Systems is an area of research which requires a significant increase in basic knowledge to support subsequent studies of a more applied nature. Forest productivity is determined by complex climatic, geochemical and physical forces interacting with the living component of the ecosystem, the diverse mixtures of woody species of varying genotype, size and age that exist in various stages of equilibria with each other and with a host of other forest organisms. Understanding basic mechanisms that underlie the dynamic changes that occur as a forest regenerates and matures is essential to determining constraints and opportunities to improve the health and productivity of the forest resource.

Areas in which research is needed to understand mechanisms involved in some of those processes include, but are not limited to: mycorrhizal symbioses, carbon and nitrogen metabolism, antagonistic relationships (interspecific interference) such as allelopathy and host-parasite interactions, and

responses of trees and stands of trees to an anticipated combination of climate change and increasing ambient carbon dioxide concentration.

If necessary, further information concerning the research area outlined in this solicitation may be obtained from the Office of Grants and Program Systems at (202) 447–2044.

How to Obtain Application Materials

Please note that potential applicants who submitted an application to the Competitive Research Grants Program for Forest and Rangeland Renewable Resources in fiscal year 1988 automatically will receive copies of this solicitation, the Grant Application Kit, and the Administrative Provisions governing this program, 7 CFR part 3200 (49 FR 5570, February 13, 1984, as amended). All others may request copies from: Proposal Services Branch; Awards Management Division; Office of Grants and Program Systems; Cooperative State Research Service; U.S. Department of Agriculture; Room 303, Aerospace Building, Washington, DC 20250–2200; telephone number (202) 475–5048.

What to Submit

An original and 14 copies of each proposal submitted under this program are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made. Each copy of each proposal must include a Form CSRS–661, "Grant Application," which is included in the Grant Application Kit. Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative.

Each project description is expected by the members of review panels and the CSRS staff to be complete in itself. It should be noted that reviewers are not required to read beyond 15 pages of the project description to evaluate the proposal. Vitae of key project personnel should be limited to three (3) pages each.

Please note the following section taken from the FY 1990 Rural Development, Agriculture, and Related Agencies Appropriations Act of November 21, 1989 (Pub. L. No. 101–161) that applies to this program.

Sec. 639. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 25 per centum of total direct costs under each award.

Every effort should be made to ensure that the proposal contains all pertinent information when initially submitted. Prior to mailing, compare your proposal with the instructions found in 7 CFR part 3200.

Submission of more than one proposal to the Competitive Research Grants Program from the same principal investigator in the same fiscal year is strongly discouraged.

Excessive numbers of co-principal investigators and collaborators create conflict-of-interest problems during the review and award processes. Proposals with multiple co-principal investigators and collaborators beyond those required for genuine multidisciplinary studies are strongly discouraged.

All copies of a proposal must be mailed in one package because applications submitted in several packages are difficult to identify. Each copy of each proposal should be stapled securely in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only.

Where and When to Submit Grant Applications

Each research grant application must be submitted to: Proposal Services Branch, Awards Management Division; Office of Grants and Program Systems; Cooperative State Research Service; U.S. Department of Agriculture; Room 303, Aerospace Building; Washington, DC 20250–2200.

Please Note: Hand delivered proposals should be brought to Room 303, Aerospace Building, 901 D Street, SW., Washington, DC 20024.

To be considered for funding during fiscal year 1990, Forestry research proposals must be postmarked by March 12, 1990.

Special Instructions

The Competitive Research Grants Program should be indicated in Block 7 and the applicable subprogram area, and number assigned to that subprogram area (e.g. 14.1 Improved Utilization of Wood and Wood Fiber) should be indicated in Block 8, Form CSRS–661 provided in the Grant Application Kit. Select one subprogram area only. A final determination of the subprogram will be made by the program staff.

Supplementary Information

The Competitive Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.206. For reasons set forth in the final rule-related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice has been approved under OMB Document No. 0524–022.

Done at Washington, DC, this 11th day of January, 1990.

William D. Carlson,

Associate Administrator, Office of Grants and Program Systems, Cooperative State Research Service.

[FR Doc. 90–1166 Filed 1–17–90; 8:45 am]

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INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, JANUARY

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

71.....645, 1452–1454, 1544
75.....1455
327.....1215

16 CFR

Proposed Rules:
401.....878
414.....879, 1768
1700.....1456

17 CFR
270.....1641
274.....959
279.....959

Proposed Rules:
155.....1047
200.....1678
230.....1460
239.....1460
270.....1460
274.....1460

18 CFR
16.....4
37.....146
154.....1174
157.....1174
260.....1174
270.....20
284.....1174
385.....1174
388.....1174

19 CFR
357.....1348

Proposed Rules:
12.....738

20 CFR
404.....1012
410.....1012
416.....1012
422.....1012
625.....550

21 CFR
Ch. I.....276
14.....1404
19.....1404
20.....1404
176.....1672
440.....277, 278
444.....616
452.....279
510.....1405, 1673
522.....1405
524.....797
558.....22, 1406
801.....548

Proposed Rules:
10.....1471
179.....646
310.....797, 1471
314.....1471
320.....1471
333.....797
341.....310
343.....1471
369.....1471
1020.....1472

23 CFR
1313.....1185

24 CFR
201.....420, 1312
203.....280, 1312
234.....1312
291.....1156
577.....1156
578.....1156

Proposed Rules:
50.....396
55.....396
58.....396
200.....396

26 CFR
1.....283, 729, 1406, 1768
7.....1406
602.....1406

Proposed Rules:
1.....310, 739, 1215, 1472
7.....1472
602.....1472

27 CFR
5.....1768
9.....285

Proposed Rules:
5.....1061

28 CFR
0.....1583
2.....288, 289, 862
545.....78

29 CFR
503.....106
1956.....1204
2610.....1206
2622.....1206
2644.....1208
2676.....1208

30 CFR
220.....1209
700.....78
702.....78
750.....78
870.....78
905.....78
910.....78
912.....78
921.....78
922.....78
925.....618
933.....78
937.....78
939.....78
941.....78
942.....78
947.....78

Proposed Rules:
243.....158
901.....647
917.....1216
935.....649
948.....34

31 CFR
2.....1644
103.....1021
351.....566
353.....575

32 CFR
40a.....23
199.....621
706.....152, 1418

Proposed Rules:
220.....1473

33 CFR
100.....153, 1583
110.....154
165.....27, 734, 1583, 1584

Proposed Rules:
110.....1679

34 CFR
319.....194
755.....1584

Proposed Rules:
302.....1217

36 CFR

38 CFR
4.....154

Proposed Rules:
1220.....740
1222.....740
1224.....740

40 CFR
52.....735, 1052, 1419, 1420
60.....28
61.....28, 78
81.....1420
180.....1585
186.....1423
228.....1024
350.....420
749.....222
761.....695
795.....627
799.....627

Proposed Rules:
52.....311, 1592
81.....35
85.....1680
141.....160
143.....160
372.....650
600.....1680

41 CFR
105–1.....1673
105–2.....1674
201–1.....29
201–2.....29
201–23.....29
201–24.....29
302–11.....1674

42 CFR
412.....290
413.....290
433.....1423
447.....1423

43 CFR

Public Land Orders:
6760.....695
6761.....862
6762.....863
6763.....1210

44 CFR
64.....155
67.....863

Proposed Rules:
67.....743, 1217, 1226

45 CFR

Proposed Rules:
1180.....1592

46 CFR
15.....1210
16.....634
54.....696

Proposed Rules:
580.....315
581.....315

47 CFR
0.....1676
73.....290, 291, 421, 869, 1035

Proposed Rules:
0.....315
1.....315
2.....315, 744
15.....879
68.....879
73.....322–327, 881–885, 1065, 1066, 1481–1483
76.....1483, 1484
90.....328, 744
95.....315

48 CFR
52.....30
525.....421

Proposed Rules:
9.....416
31.....1554
33.....990
48.....416
205.....962
208.....962, 1593, 1594
209.....962
214.....962
215.....962
225.....962
246.....962
252.....962, 1593, 1594
271.....1594
522.....445
552.....445
Appendix T.....962

49 CFR
171.....422, 870
172.....870
173.....422, 870
175.....870
199.....797
571.....1586, 1681
594.....78
1312.....1035
1313.....156

Proposed Rules:
392.....37
567.....747
571.....446, 747, 760, 1226, 1681
572.....1139
585.....747
605.....334
1151.....1067

50 CFR
17.....425, 429
611.....291, 1036, 1434, 1591
642.....1212
650.....433
652.....1213
663.....30, 1036
672.....31, 1036
675.....31, 1036, 1486, 1434

Proposed Rules:
17.....761, 886, 1230, 1486, 1488
228.....1685
301.....1491
628.....652
651.....38
658.....447

LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 101st Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 101st Congress, which convenes on January 23, 1990.

Last List December 27, 1989